83-5460

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1982

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SUPREME COURT, U.S.

ROLF BETKA, Appellant

vs.

CITY OF WEST LINN, a subdivision of the STATE OF OREGON; ARTHUR ENDERLIN; GERALD CRIPPEN; DONNA LEE FERGUSON; JOHN W. TEGTMEYER; JERRY L. BULLOCK; DAVID SCHERMER; CHARLES H. COMBS; JOE DOE, Sheriffs Deputy of Clackamas County; DENNIS VOTE; PAUL MC ALLISTER, Sheriff of Clackamas County of State of Oregon,

Appellees

APPEAL FROM THE UNITED STATES COURT OF APPEAL

FOR THE NINTH CIRCUIT

JURISDICTIONAL STATEMENT

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

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A. OPINION OF DISTRICT COURT

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STATUTES AND OTHER AUTHORITIES

FEDERAL STATUTES:

U.S.C. 18-2, 18-241, 18-242, 18-245(a)(2)(b)(1)(B)(E)
(a)(2)(b)(2)(B)
(a)(2)(b)(4)(A)(B)
(a)(2)(b)(5)
18-371, 18-1501, 1503, 1506, 18-2071, 18-2312, and 2313
18-3231, 18-3282

28-144, 28-455(a)(b)(1), 28-1292(a)(1), 28-1331, 1332(a)(2)
28-1337, 1343(1)(2)(3)(4), 1355, 2106, 2201, 2283, 2284,
1915 1253,2403
42-1981, 1982, 1983, 1985, 1986, 42-2000a-1
and Executive Order 12259 under 42-1982

CONSTITUTIONAL PROVISIONS:

U.S. Constitution: Amendments 1, 4, 5, 6, 7, 8,9,10,14
Bill of Attainer Clause Art I, sec 9, cl 3
Art I, sec 10, cl 3
Art III, sec 2, cl 1
Commerce Clause, Art I, sec 8, cl 3
National Housing Act
Community Service Act of 74
Uniform Property Act
Civ. Rights Act of 1766, 1871, 1964, sec 601, and 1968
Oregon Const., Sec 11, 16, and 17
West Linn City Ordenance: 865 and 909

SUPREME COURT RULES:

10, 12, 13.1, 15, 39, 46, 28.2, 28.4(a,b,c) and .5(c)

FED. RULES OF EVIDENCE: 201, a, b, d.
FED. RULES OF APP. PROCEDURE: 7 as amended

OREGON STATUTES: ORS 12.080(1,2,3,4), 30.190(1), 30.275(3),
ORS 46.560, 153.240, 164.015, 164.345(1),
ORS 165. 013, 131.135, 483.382(4)(5), 483.384(2),
ORS 483.384(1) and 105.105

CASES

Ass. Indemnity Corp. v. Garrow, Inc. 125 F2nd 462

Clerk v. Musick,(1980), CA 9, Ore, 623 F2nd 89

Chumney v. Nixon CA 6, 615 F 2nd 389

Davis v. O'Hara, 266 U.S. 314, 69 LEd 303, 45 SCt 104

Fed. Prescription Serv. v. American Pharmaceutical (1980) 636 F2nd 755,757

In Re South, 10 BR 599, 10 Okl., 1981

Looney v. Texas Ry Co. 35 SCt 162, 247 U.S. 116 - 2283

Littleton v. Berbling, 460 F 2nd 389

Leonard v. U.S. 633 F2nd 509, p 603, 101 SCt 1975

Maine v. Thiboutot, 100 SCt 2502, 65 LEd 2nd 555 (1980)

Motor Terminals Inc. v. Maryland Car Co., 1950 CA3 Del 182 .Fr. 732

Pac. Tel & Telegr. Co. v. Star Publ Co., D.C. Wash. 1924 2 Fed 2nd 151

Purcell v. Summers, 126 F2nd 390

Rush v. U.S. , CA10 1956, 256 F 2nd 862

Singleton v. City of New York 632 F2nd105, 101 Sct 1368, 450 U.S. 920, 67 LEd 2nd 347.

Walters v. Payne, 292 F 124.

Winhoven v. U.S. 201 F2nd 174, CA 9, 1952

United Mineworkers v. Gibbs, 1966, 383 US 715, 16 LEd 2nd, 218, 86 SCt 1130.

OPINIONS BELOW

The District Court dismissed the action in which they had recognized the validity of appellant const. claim in their Find. & Recom. by Magistrate Juba with reservations as to the statutory limitation for bringing the action. Appellants Motion for reconsideration under Title U.S.C. 28-636 was denied by the same Magistrate before whom appellant had contested that the two year limitation for civil rights violations should be declared unconstitutional and is also in conflict with an earlier decision of the same court in Clerk v. Musick, 1980 CA9 Or, 623 F2nd 89 which allowed a six year limitation period under ORS 12.080(2) for actions involving abuse of process, malicious prosecution and false arrest and imprisonment, also part of appellants complaint on page 3, line 20. Appellant motion for injunctive relief under authority 28-2283 from judgments in State Court placed on appellant's real property by fraud, deceit and surrender of judicial power in which garnishment proceedings had been used against appellants Social Security Disabil. Benefits, had been denied by a one judge court.

Appellant appealed with 2nd amended Notice of Appeal including an Order for posting Cost Bond and with Order by the Appeals Court of July 6, 1983 it was demanded that (1) to comply with the order for Cost Bond or apply for reduced Cost Bond in the Distr. Court, and denied Appellants Complaint for Declatory judgment which had been filed in the Court of App. after Order in Distm. Court not to accept anymore papers for filing.

With Motion under FRCP 60(b)(4) of August 15, 1983 appellant submit. to the Distr. Court and App. Court(AC - as exhibit to Motion made under FRCP 60(b)(2)) . newly brought malicious action by def. City of West Linn against appellant and also used it in opposit to Motion by defendant to dismiss the Appeal for lack of prosecution . The Motion was in support of appellants Notice to AC of appeal in which denial of due process of law was listed as one of the reasons for the appeal.

The District Court denied to accept the 60(b)(4) Motion contrary to order by dismissing judge stating that clerk should ask for permission to file any additional papers.

No decision has reached appellant on the FRCP 60(b)(2) and (4) motions with relief requested under 60(b)(6)

An amended Notice of Appeal was entered on Sept 6, 1983 listing new Sheriff (after Motion in AC to add the new Sheriff, because of old one had been convicted in fed. Court of fed. crime and was replaced) and additional West Linn Police officers and privat parties.

Authorities: As to denial of 60(b)(4) - Failure to sorsider contention that judgment is void for denial of due process is error as held in Winhoven v. U.S. 201 F2nd 174, CA 9 1952

The new matter against appellant was prosecuted and judgment entered with Order in West Linn Court allowing the City not to issue Statement of policy and custom regarding discrimination to conceal official policy of discrimination against appellant to deny the participation in violations brought to this courts attention with SCt 82-5754 and 82-6705 and is contrary to Singleton v. City of New York 632 F2nd 185, SCt 1368, 450 US 920, 67 Led2nd 34, and Leonard v. U.S. holding that the city is liable for violations of fed. statutes (1337 - National Housing Act) pursuant to official policy and custom.

GROUNDS FOR JURISDICTION

As to Complaint for Declatory Judgment:

The complaint was filed in Court of Appeals under authority of Titel 28-2201 which does not speak to the question of venue. The complaint was denied with the order of July 6, 1983 with the knowledge that Motion to amend summons including summons for the complaint for Declatory Judgment had been submitted to the District Court. The order to receive the Motion came six days after the Appeals Court denied the Declatory Judgment. The denial of considering the Motion for amending the summons is an abuse of discretion since no prejudice and injury to the defendants would have resulted from it.

The Appeals Court should have proceeded as held in Ass. Indemnity Corp. v. Garrow on account of the rights and liabilities involved beeing an outgrow or incident of matters of the Civil Rights complaint as held in Purcell v. Summers in the light of the obvious denial to adjudicate not based on the merits and by denying to apply the due process of law in the District Court.

Charges were brought and filed with the Civ. Rights Div. of the U.S. Justice Dept showing Title U.S.C. 18 violations including charges of fraud and corruption against two fed. judges and one State judge of which the Court of Appeals was informed and the same allegations are reinterduced with this paper after having confronted the fed. Courts including SCt 82-5754 and 82- 6705 with the charges of class discrimination.

A copy of the Complaint for Declatory Judgment is attached for review or approriate other action after taking Judicial Notice under authority of Fed. Rules of Evidence 201, a,b,d of U.S.A. Exhibit 293 used in the Nuermberg Tribunals claiming that steam and not gas had been used by germans in extermination of european jews. It attaches special significence to articel introduces in fed. 81-67 (SCt 82-5754) as Exhibit to (CR 38) a report by ex-G.I. testifying that the Dacham Gaschambers were built by the U.S. Army for demonstration purposes after ceasing of the war hostilities. The complaint was filed in good faith and without any malice against anyone who is willing to apply the rule of law including the "Reasonable man" doctrine" after approx. 40 years of teachings of halftruths causing the denial of U.S. constitional guarantees to U.S. citizens which do not share the halftruths because of having been close to the scene of the "warcrimes" which are still held against germans and former germans in the West Linn schools as Exhibit "A" to the Complaint for Declatory Judgment shows. There is no argument made by appellant that humiliation, brutality medical experimentation and shooting of hostages were part of WW II in which approx 50 million people perished which were of different enthnic and religious background. However there is a delibert indifference on the part of appellant when it comes to beeing persecuted by these teachings and beeing exposed to oppresive means under the guise of federal Rules of Law which are supposed to be based on fairness.

As to the Cost Bond Issue:

In denying the Complaint for Declatory Judgment after having submitted the appeals brief the Court of Appeals is denying the existence of an "actual controversy" which was the motivation for appealing to the Supreme Court, after briefs had been filed in AC. The proceedings in the Distr. Court shows that a deliberate attempt was made to withhold evidence showing facts of fraud and violations of civil rights which were not barred by the Statute of limitations. An attempt to expound on the fraud as pleaded the Court countered by denying appellant to file opposing paper to Motion to dismiss with argument under FRCP 12(b)(6). And evidence, that the Sheriff had denied serving a federal summons on witness for state action which was removed and before this court under SCt 82-6705, was supressed with finding that this evidence can not be used in the amended complaint which was denied. The witness is D. Vote and Defendant of this action who had made no appearance. In disregard of evidence submitted showing collusion between City of West Linn, the Sheriff and defendant H. Clyman of fed. 81-67 SCt 82-5754 to deny appellant property interest protected by the 14th amendment for having denied appellant a trial and witness for a criminal trial and entry into courtfiles that the scheduled trial was part of a malicious prosecution after unlawful arrest and abuse of process) a premature judgment was entered dismissing the action against City of West Linn and amending the judgment by a judge and denying a rehearing is a clear abuse of discretion allowing

appellant's challenge of the Cost Bond Order since the posting of Cost Bond is declared discretionary by the FRAP, Rule 7 as amended 1979 as held in Fed. Prescription Serv. v. Amer. Pharmaceut. The appeal to the Court of Appeals included proceedings under 28-455(a)(b)(1) against Judge Panner who denied them without showing willingness to apply the "reasonable men" doctrine.

The new matter introduced is showing again that the County, the Sheriff and City of West Linn conspired to deprive appellant of testimony and evidence by the county that West Linn City Ord. 865 and the violation of it is not constituting an infraction but provides for a citation penalty to be prescribed under Oregon Law by the County which was maliciously disregarded when a notice of infraction was issued for $00.-- in an action initiated by the City to harass appellant.

The new issue was brought to the attention of the Appeals Court because the District Courts action and orders barred appellant from filing any other paper. Motor Terminals, Inc. v. National Car Co., 1950 is holding that new issue may be considered and is allowing to issue restraining order against prosecution as held in Pac. Tel & Telegr. Co. v. Star Pub. Co. on the basis as held in Looney v. Texas Ry. Co. by this Court which provides that no other Court jurisdiction may be invoked until the fed. jurisdiction is exhausted. The Counties liability is shown by the pleadings asserting and substantiated by evidence in this action, SCt-5754 and SCt 82-6705, that County is maintaining a climate of denial of free speech by official policy and the relation back to the date of the original Civ. Rights

Complaint is authorized as held in Davis v. Wechsler Walters v. Payne holding that the action is regarded as against the political unit under whos authority the officials had acted - in this case - the Sheriff and Joe Doe, Sheriffs Deputy of Clackamas Count of Ore. as pleaded in Amended complaint (CR 59), in the new matter submitted to the Court of Appeals and in Motion to amend summons clarifying the responsibilty of acts committed by Joe Doe, Sheriffs Deputy and the Sheriff as officials acting under the authority of the County. In the face of the conviction of the Sheriff for a fed. crime in federal Court and the supression of evidence of an additional fed. crime committed by the Sheriff appellant is confident by pointing to Chumney v. Nixon which is holding that violations of federal criminal statutes is creating a privat right under Title 28-1331. The County and the Sheriff (see CR 59 Amended complaint) had violated appellants vested property rights from building contracts held with the County under the National Housing and Community Service Act of 74 and apparently had encouraged the conspiracy by the City of West Linn, Defendant Vote, and adverse parties in 81-425 (SCt 82-6705) to commit a crime against the U.S. in violation of Title 18-2312 and 13 by trespassing, stealing and selling appellants automobile without reporting the sale under Oregon Law to the County Recorder. Original and exlusive fed. jurisdiction was to be attached to this action on account of the matter of the Car as held in Rush v. U.S. and United Mineworkers v. Gibbs should have allowed a consolidation with the action in the Appeals Court brought to the attention of this Court with 82-6705. Appellant had invoked 28-1343(3) allowing fed. Courts to decide all const. claims as held in Cf. Maine v. Thiboutot, 100 SCt 2502, 65 LEd 2nd 555 (1980)

QUESTIONS PRESENTED

Appellant is plaintiff in this action and defendant in action brought by the City of West Linn under 83-1568 in their Municipal Court. Appellant also was defendant in SCt 82-6705 and is of the ophion that besides the Abuse of Discretion in demanding the Cost Bond by the District and Appellant Court authorizing relief which had been applied in AC and denied with Order of July 6, 1983 appellant is also authorized not to submit to the order for Cost Bond as held in In Re South, 10 BR 899, DC Okl, 1981 which is holding that no fee is properly chargeable as a condition precedent to a persons right to defend life, liberty or property in a forum having sole, exclusive jurisdiction.

Regarding the Declatory Judgment plaintiff believes that the Court of Appeals is under duty to recognize the "actual controversy" and for this reason has to notice that appellants request for Declatory Judgment is valid in the light of deliberate indifference and denial of due process by the Distr. Court.

The decisions by the Nuernberg Tribunals are challanged regarding their constituionality and appellant has joined former prosecuting attorney (see EXhibit "C" to Complaint for Decl. Judgment) in declaring that the decisions were not based on a decent american law and proceedings and are the cause of having denied appellant by actions of the State of Oregon the guarnantees of the U.S. Constitution secured to appellant, a citizen of the United States Appellants requests that the Nuernberg Tribuals are to be declared void to allow appellant relief in the Courts of the United States.

SUBSTANTIALITY OF FEDERAL QUESTION

The County of Clackamas, State of Oregon is owing defendant for contracts financed by the federal Government $ 12, 671 less offsets since May of 1979 the month appellant became disabled under Social Security.

The City of West Linn and other defendants in this action, in SCt 82-6705 and in SCt 82-5754 have caused the destruction, damage and larceny of property in a willful and malicious manner to destroy physical facilities, building material and equipment incl. car located and constructed on property to which appellant held title under Oregon law superior to titles of adverse parties in SCt 82-6705 The violations of appellants property rights are protected by Title 42-1982 and 5th amendment to the Constituion of the United States.

Appellant is entitled to Relief in the federal Court.

In the light of denial of Statement of policy and custom regarding discrimination by the City of West Linn and having confronted the federal courts and Municipal Court of West Linn with allegations of class discrimination by acts brought to the attention of this court under 82-5754 and 82-6705 and this action, appellant repeats his allegation made to Civil Rights Div. of U.S. Justice Dept for the first time in period between Nov 82 and Jan of 83, that the actions described were to injure, oppress, threaten and intimidate appellant, a citizen of the United States in the free exercise and enjoyment of the rights and privileges secured to him by the Constituion and Laws of the

United States of America not to be deprived of life, liberty and property without due process and for the purpose of the violations the following judicial officers had joined and are the following: Judge Blanding of the Clackamas County Circuit Court, State of Oregon, Magistrate Juba and Judge Frye of the federal District Court of Oregon, and Judge Crist of the Municipal Court of the City of West Linn, State of Oregon and are to be enjoined as held in Littleton v. Berbling, 468 F2nd 389 The acts of the judges were willful, malicious or arbitrarly and were designed to purposefully assist the Conspiracy to deprive appellant of civil, fundamental and constitutional rights privileges and immunities. With Motion under FRCP 60(b)(1) and 60(b)(6) in District Court including argument against Cost Bond Request appellant had pointed with date of Nov. 3, 1982 to the Nov. 1, 1982 criminal proceedings against the District Court Clerk filed with the local U.S. attorney in which with later paper also the Chief Deputy Clerk was accused of having corruptly endevoured to influence, obstruct, and impede the justice in that he knowingly, willfully, unlawfully, feloniously and coorruptly endevoured to influence a federal judge in violation of 18-1503 and for the judge to dismiss the civil actions, for lack of merits and subject matter jurisdiction, contrary to the facts developed and recorded. Deputy Clerk D.M. Cinnamond had entered prematurly a judgment in this case for the same purpose as stated and R.M. Christ followed by denying the acceptance of a Motion made under authority of FRCP 60(b)(1) to feloniously avoid a record whereby judgments are made void in violation of 18-1506 reported to the Appeals Court after Notice of Appeal to the Supreme Court.

ABUSE OF DISCRETION

Not notizing "actual controversy" by Court of Appeals after filing of appeals briefs and allegations of denial of due process of law, expressed by denying the Complaint for Declatory Judgment, is none-performance of the courts duty or Abuse of discretion.

The Court of Appeals had been informed that (1) the Complaint for Declatory Judgment had been served on the attorneys for the defendants under FRCP 5(b) and (2) that with date of 6/20/63 Motion to amend the summons to comply with the complaints (including Complaint for Declatory Judgment) had been submitted to the District Court. There is no timelimitation attached to Motion to amend summons and denial of filing the Motion in District Court on the basis of untimeleness or because of possible prejudice and injury resulting from it to defendants is not justified. The facts of the denial to file the Motion to amend summons and the denial to notice the "actual controversy" for the purpose of denying the Complaint for Declatory Judgment lends credit to the argument for an Abuse of Discretion.

With Appendix "P" a list of Abuses of Discretions together with acts constituting denials of due process of law are submitted on which Notice of Appeal to Court of Appeals was based.

STATEMENT IN COMPLIANCE WITH SCT RULE 28.4(a,b,c)

I, Rolf Betka, hereby state, that 28-2403 and 2403(b) may be applicable in this case were the constituionality on an Act of Congress is drawn in question and a federal employee is a party and according to appellants knowledge no certification was made to the U.S. Attorney General persuant to 28-2403(a), from a court defined by 28 U.S.C 451. The constitutionality of stutues of the State of Oregon is drawn in question and 28.2403(b) may be applicable and according to appellants knowledge no certification was made from any court defined by 28 U.S.C. 451 to the Oregon State Attorney General stating that the constitutionality of such statues are drawn in question. The federal employee is defendant Ch. Combs.

CONCLUSION

For the reason stated above, appellant submits that this appeal brings before the Court substential and important federal questions which require plenary consideration for their resolution.

Respectfully submitted:

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Tel phone: (503) 657-3669

DATED: Sept 20, 1983

APPENDIX A

Copy of Complaint for Declatory Judgment including Exhibits "A","B","C","D", dtd April 4, 1983

APPENDIX B

Amended Complaint for Civ. Rights violation, Injunction and Demand for Jury Trial, dtd 1/291982

APPENDIX C

Find & Recom in District Court, dtd Feb 18, 1982, showing on page 3, starting with line 15, that a 2 year statute of limitation had been applied.

APPENDIX D

Motion for Reconsideration and Objection to U.S. Magistrates F&R under 28-636 (no consent had been filed to allow magistrate) dtd Mar 1, 1982 with Exhibits "A" & "B" showing challange Oregon 2 year statute of Limitation.

APPENDIX E

Order denying Motion and Objection (listed under Appendix D) by US Magistrate Jube, dtd April 19, 1982.

APPENDIX F

Judgment dismissing the action, dtd 3/17/82

APPENDIX G

Amended Judgment, dtd 3/19/82

APPENDIX H

Order directing the entry of Judgment, dtd 6/30/82

APPENDIX I

Judgment dismissing the action, dtd 6/30/82

APPENDIX J

Amended Judgment under FRCP 54(b), dtd 7/26, 1982

APPENDIX K

Order of Court of Appeals, dtd 7/6/83

APPENDIX L

Notice of Appeal to Supreme Court, dtd 7/2583

APPENDIX M

Amended Notice of Appeal, dtd 9/6/83

APPENDIX N

Order regarding Motion to amend summons, dtd 7/7/83

APPENDIX O

Order by District Court, denying filing of Motion to amend the summons (including summons for Declatory judgment) dtd 7/12/83

APPENDIX P

Motion under FRCP 60(b)(2)(L)(6) regarding new matter in West Linn Municpal Court against appellant declaring judgment s void in District Court, dtd 8/15/83

APPENDIX Q

Motion for Order to Stay on the matter in the Munic. Court of West Linn.

Appellant limited the appendices to the ones necessary in support of the issues involved in the appeal. Motion under Supreme Court Rule 13.1 was filed for the event that more of the records are needed.

"4"

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROLF BETKA,

Plaintiff-Appellant,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon, ARTHUR ENDERLIN, GERIAD CRIPPEN, DONNA LEE FERGUSON, JOHN W. TEGTMEYER, JERRY L. BULLOCK, DAVID SCHERMER, CHARLES H. COMBS, JOE DOE Sheriff's Deputy of Clackamas County, DENNIS VOTE, PAUL MC ALLISTER, Sheriff of Clackamas County of the State of Oregon,

Defendants-Appellees.

No. 82-3474

DC# CV 81-866 ORF
Oregon (Portland)

COMPLAINT FOR DECLATORY JUDGMENT

TO: Judge Sneed

I.

Plaintiff Rolf Betka, is a resident of the City of West Linn, County of Clackamas, State of Oregon.

II.

Arthur Enderlin, Gerald Crippen, Donna Lee Ferguson and John W. Tegtmeyer are or were employees of the West Linn Police Dept. David Schermer was a former attorney of plaintiff. Charles H. Combs was attorney for plaintiff Smiths in 81-425, AC-81-3613. Jerry L. Bullock is a local towtruck operator and Dennis Vote claimed to have been on the payroll of Smith. McAllister is the local Sheriff and Joe Doe Sheriffs Deputy was on the scene with West Linn Police giving purposefull assistence to torts and crimes against plaintiffs property according to testimony by D. Vote and verified by Affidavid signed by D. Schermer and part

of the record of the case.

III.

This is an action for declatory judgment pursuant to Title 28, USC Section 2201, for the purpose of determining a question of actual controversy beween the parties as hereinafter more fully appears.

IV.

Jurisdiction of this action is based on Title 28, USC, Section 1331 a) and Title 28, USC, Section 2106 and fed. Statutes, Constituition of the United States of America and Amendments as listed on page 3 of Appellats Brief before this Court.

V.

The central judicial controversy is one dealing with equal protection under the Constitution and laws of the United States sought by plaintiff, a naturalized U.S. Citizen of german background, who has cause to believe that his allegations in the pleadings of this case and fed. 81-67, AC 81-3611, SCt No. 82-5754 has resulted in a discriminatory treatment by the fed. courts suggesting that there was a delibert attempt to bar plaintiffs minority view from an open courtroom and jury.

VI.

Plaintiff professes to be a Christian and member of the Church of latter Day Saints and acted according to his conscience when he, starting from appr. 1968, tried to defend his children in in the local school from a continous discriminatory treatment on account of their national heritage and on account of their parents. Attached is Exhibit "A" in testimony to the described teachings objected to by plaintiff.

VII.

Plaintiffs insistence to excercise free speeach in support of his children was guided by his religious believe and U.S. v. Holy Trinity U.S. CC NY 36 F 303 rev. 12 SCt 511, 143 US 457, 36 LED 226 which declared that the U.S. is a christian nation guaranteeing liberty and freedom for all.

and was not aware that his believe based on constitutional ground was not shared by many protestant and jewish clergy of conventional denominations whos actions imply that they favour the secular or humanitarian religion with its "Holocost" idle based on halftruths damaging especially minors of german background whos parents would be able, by their life experience, to lend more credit to the teachings and hereby prevent predictable harm to the families involved.

VIII.

Like plaintiff, many other german americans had been and still are confronted with the same problem and agree with plaintiff that as long as there is no evidence produced capable of standing the test of American Rules of Evidence a minority view on the subject should be protected by the 1st Amendment of U.S. Const. and darages should be allowed if this protection is willfully denied and was the cause of harm to person and property of a U.S. Citizen, as was the case with plaintiff. "Judicial Notice" on the subject appr. 40 years of teachings of halftruth in this and other countries is not recognized by plaintiff as an instrument supporting the truth of the matter.

In Support of plaintiff's argument are Exhibit "B" - page 191 from Unconditional Hatred" by Capt. Russell Grenfell, R.N. Library of Congress Catalogue Card No. 53-12064 and Exhibit "C" page 27 of "The Methods of Reeducation" by Udo Walendy, 1979 Copywritht by Verlag fuer Volkstums und Zeitgeschichtsforschung D-4973 Vlotho/Weser West Germany.

IX.

Plaintiff had given two lectures as taxpayer and person with lifexperience in Germany between 1926 and 1955, was given letter of commendation and was denied the continuation of the lectures. In Support hereto is letter of recommendation, dtd 4-18-77 by Clackamas County Community College as Exhibit "D".

X.

In fed. 81-67, AC 81-3611, SCt 82-5754 the ultimate decision was made not by the Supreme Court of the U.S. but by its clerk denying plaintiff the document for rehearing and its filing contrary to the Supreme Court Rules. Judge Browning of this Court had been contacted by plaintiff on the matter without showing any result as of this date. Encouraged by the privious decision of the Supreme Court in Shelton v. Tucker, 364 US 479 and Farrington vs. Tokushige, 273 US 284 plaintiff had tried to bring the matter of the minority view in the public schools to the Supremes Court attention which had held in the two cases above:

> The vigilant protection of constitutional freedoms is nowhere more vital than in the community of american schools and Due Process Clause of the 5th amendment affords the same protection of fundamental rights to privat schools, parents and children against invasion by the fed. government and its agencies as it has been held by the 14th (with regard to invasion by the states)

XI.

Authority as to this Complaint for declatory judgment:

E.B. Marks v. C. K. Harris Music Publishing Co. 255 F2nd 518

XII.

WHEREFORE, plaintiff prays that

1. The court enter a declatory judgment that plaintiffs right to a minority view secured to him by the 1st amendment to the constitution of the United States be recognized by allowing a judgment for him as stated in his seperate Complaint for Depriviation of Civil Rights with same court file No. (1) for damages in the amount as stated including punitive damages (2) for Injunctive Relief as stated in seperate complaint after allowing additional Amendment to the complaint, joining of claims and add. parties and actions as applied in seperate complaint including applicati made in DC 81-425, AC 81-3613 for which plaintiff has filed Notice of Appeal to Supreme Court. Consolidation with 81-425 in DC was impossible and denied since this action was in this court and consolidation applied for in this court was made impossible by having returned 81-425, AC 81-361 after the Motion for consolidation had been filed in this court. (3) Injunctive Relief to stop the practice as testified by Exhibit "A" in the local West Linn Schools, West Linn Lutheran Church under the leader (hip of Pastor G. Olsen, defendant in 81-67, SCt 82-5754 and to allow a minority view voiced on the subject of Holocost in the Clackamas Community College to give balance to the teachings by the present history teachers and jewish rabbies as witnessed in previous years by plaintiff and (4) give judgment in declaring the Nuernberg Military Tribunal as void since they are the cause of having denied plaintiff the equal protection under the 1st amendmt of the U.S. Const. anc have him denied relief in action (81-67, AC 81-3611, SCt 82-5754) with authorized constituional claim. Exhibit "A", "B" and "C" are submitted also in proof of the Military tribunal decisions beeing void

2. The court grant such other and federal relief as may be proper.

DATED: April 4, 1983

ROLF BETKA, In Pro Per

CERTIFICATE OF MAILING

I, Rolf Betka, hereby certify that a true and correct copy hereof was mailed on April 4, 1983 to the following attorneys of record of opposing parties:

William Davis, J. Hill
One SW Columbia
Portland, Ore. 97258
— for def. Schermer and Combs

Ronald E. Bailey, S. Joel Wilson, J.A. Geary
1000 Willamette Center
121 S.W. Salmon Street
Portland, Ore. 97204
— for def. West Linn and their defendant employees

Keith Kinsman
Asst County Counsel
906 Main Street
Oregon City, Ore. 97045
— for County of Clackamas Sheriff and Sheriffs Deputy of County of Clackamas

Def. Bullock and def. Vote had made no appearance

DATED: Apr. 4, 1983

ROLF BETKA

EXHIBIT "A"

ROLF BETKA
IN PRO PER
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ROLF BETKA,

Plaintiff,

v.

STATE OF OREGON, et al.,

Defendants.

Civil No. 81-67

AFFIDAVIT OF ROLF BETKA IN OPPOSITION TO MOTION OF RICHARD B. SPOONER FOR SUMMARY JUDGEMENT

STATE OF OREGON)
) ss.:
County of Clackamas)

Gerry Jewkes, beeing first duly sworn, deposes and says:

1. I am a member of the Church of latter day saints, West Linn Ward and reside in West Linn, Ore., 6450 Club House Circle.

2. Statement of fact: Mr. Betka, a member of my church was visited by me and during that visit a student of West Linn High made the statement "that West Linn High is teaching as if all Germans were enemi of the U.S.", or words to that effect.

Gerry Jewkes

Sworn to before me this day of 1981 Gerry Jewkes

Notary Public for Oregon
My Commission expires:

DAVID F. JENSEN
NOTARY PUBLIC-OREGON
My Commission Expires 5-10-84

The crude Teuton, Himmler, and his acolytes had, it would seem, something to learn from the more refined and artistic Latins to the westward.

On January 25, 1949, the Sunday Pictorial published, under the headline "AMERICANS TORTURE GERMANS TO EXTORT 'CONFESSIONS,'" what it called "an ugly story of barbarous tortures inflicted in the name of allied justice," taken from the report of the American Judge Edward L. van Roden, who had investigated allegations to this effect as a member of an official Commission of Enquiry. The Judge found that German prisoners were subjected to various forms of maltreatment till, as the *Pictorial* said, "strong men were reduced to broken wrecks ready to mumble any admission demanded by their prosecutors."

Some of the actual methods of persuasion revealed by the Judge included forcing lighted matches under prisoners' fingernails, kicking in the testicles beyond repair (in all but 2 of the 139 cases investigated), putting a black hood over a prisoner's head and then bashing him in the face with knuckle-dusters, and the use of bogus priests, complete with crucifix and candles, to hear confessions in the hope of gaining incriminating information.

How can it be maintained, in view of all the foregoing, that the Germans are unique monsters of cruelty and sadism, as so many good people in Britain are convinced they are and declare them to be? Monsters they may be, but unique, no. When we go to church and recite with the vicar our confession as "miserable sinners," we recognise that we may have a few blemishes ourselves. But in relation to a foreign enemy, we leave this penitent mood behind us as we pass the church door. Once back in the cheerful

EXHIBIT "B"

It also important that most of such witnesses are not subject to a legal liability for perjury, as immediately after their testimony they usually travel into foreign countries, or – as opponents of the Third Reich – they are basically protected against all responsibility in any such actions.

In the Transition-Treaty of March 30, 1955, the Federal Government has pledged to legally recognize retroactively the whole occupation law as well as all legal decisions of the victorious powers, and to shape their future legislation on the basis of these same principles. Thus, the essentials of the London Statute of August 8, 1945 and, by this, the foundation of the "Nuremberg jurisdiction" of 1945/46 remains in effect in the Federal Republic of Germany.

Further 800 "war crimes trials" against German people have been announced. 12.000 such trials have already been carried out. The 7 million Germans, who during World War II fell victim to Eastern and Western murder, mass-murder and destruction, they apparently need no avenging, no restitution of their honor? Not enough that Allied war criminals are not prosecuted – they dare not even to come close to the supposition of "justice": the factual clarification of the historic truth of the drafting of neutral examining judges! Is this the look of "justice", "sovereignty", "humanity"; is this the look of "freedom"?

Crimes – of which they do not talk

Crimes – which are not prosecuted or condemned

Crimes – which German people had nothing to do with, neither directly nor indirectly.

The commander for the atomic bombing of Japan, despite her prior readiness to capitulate – Harry Truman has advanced into the circle of the "Great Three".

Also this "Democrat" did not ask anybody, whether "research-purposes" justified the use of atomic bombs on Japanese cities.

Eidesstattliche Erklärung

Ich, der unterzeichnete Stephen F. Pinter, seit dem Jahre 1920 Rechtsanwalt in der Stadt St. Louis, im Staate Missouri, U. S. A., erkläre hiermit, dass ich vom Januar 1946 bis Juli 1947 als U. S. Anklagevertreter in Dachau tätig war, und zwar als Anklagevertreter. Obschon ich aber in jeder Weise mein bestes tat, um das wirklich rechtmässige Recht zu vertreten und die Justiz des Hasses zu verhindern, gab es dort eine Anzahl von Personen, die immer wieder falsche oder unbegründete Anklagen gegen deutsche Angeklagte erhoben und mit Hilfe meineidiger Zeugen vor den damaligen militärischen Gerichten oftmals auch Erfolge erzielen konnten, die den wirklichen Tatsachen nicht entsprachen. Als Resultat solcher Ungerechtigkeiten wurden leider viele unschuldig verurteilt und einige auch hingerichtet. Von den grossen Prozessen in Dachau waren es besonders der Malmedy-Prozess und die KZ-Lager-Fälle Mauthausen und Buchenwald, die während meines dortigen Aufenthaltes, trotz ihrer Unrechtmässigkeiten bekannt waren.

Stephen F. Pinter

Vor mir einem öffentlichen Notar der Stadt St. Louis, im Staate Missouri, erschien der mir bekannte Rechtsanwalt Stephen F. Pinter, bestätigte und unterzeichnete vorstehende Erklärung in meiner Gegenwart, an diesem 9. Februar 1960.

Urkundlich meiner eigenen eigenhändigen Unterschrift und Amtssiegel.

My Commission Expires Jan. 22, 1961

Öffentlicher Notar.

SWORN STATEMENT

I the undersigned Stephen F. Pinter, since 1920 attorney at the city of St Louis, in the State Missouri, U.S.A., do hereby declare that I worked as U.S. Army Attorney at Dachau between January 1946 and July 1947, and that as prosecutor. While I, however, did my very best in any manner to represent the truly decent law and to prevent the justice of hate, there were a number of persons, who repeatedly raised false or insufficiently proven accusations against German defendants, and who very often could obtain successes by help of notoriously perjured witnesses before the military courts of that time, which did not correspond to the real facts. As a result of such missjustice, unfortunately, many were innocently convicted and some even executed. Of the great trials at Dachau it was especially the Malmedy trial and the KZ-camp cases Mauthausen and Buchenwald, which, however, I did not participate in during my stay there, as they were known for their illegalities.

(Signature: Stephen F. Pinter)

Before me, a notary public of the city of St. Louis, in the State of Missouri, there appeared on this February 9, 1960 the attorney Stephen F. Pinter, who is known to me, and swore to and signed the preceding declaration in my presence.

Certified with my own written signature and official seal. (Signature)

My commission expires January 22, 1961

Notary Public

CLACKAMAS
Community College

19600 south molalla avenue
oregon city, oregon 97045
Dr. John W. Halvorson, President
College Phone: 656-3231

10 YEARS

BOARD OF EDUCATION
Ms. Corinne L. Jones, Chair
Ms. Anne Hiskel, Vice Chair
Mr. Gary Cornelius
Mr. William Gregory
Mr. Ralph Greener
Mr. Roger Roos
Mr. Larry Wright

April 18, 1977

EXHIBIT "D"

Mr. Rolf Bethka
19886 White Cloud Circle
West Linn, Oregon 97068

Dear Mr. Bethka:

Thank you so much for your time in talking to our students today. I know they appreciated and were greatly interested in what you had to say.

My best wishes to you in your future endeavors to educate the American public.

Very truly yours,

Donald B. Epstein

Donald B. Epstein

Mrs. Epstein -- I have checked in my classes and school.

On the subject of assistance I believe I might have to obey something.

very truly yours,
Rolf Bethka

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ROLF BETKA, Plaintiff, vs. CITY OF WEST LINN, a subdivision of the State of Oregon, ARTHUR R. ENDERLIN, GERALD CRIPPEN, DONNA LEE FURGESON, JOHN W. TEGTMEYER, JERRY L BULLOCK, DAVID SCHERRER, CHARLES H. COMBS, PAUL MCALLISTER SHERIFF OF CLACKAMAS COUNTY OF STATE OF OREGON, DENNIS VOTE, DEFENDANTS.	Civil No. 81-866 AMENDED COMPLAINT FOR DEPRIVIATION OF CIVIL RIGHTS, INJUNCTION AND DEMAND FOR JURY TRIAL INCLUDING SUPPLEMENT

Comes now Plaintiff and for cause of action against the Defendants above named, is amending his complaint and alleges as follows:

I

The jurisdiction of this court is invoked persuant to Title 28 USC 1343. This is an action for an injunction and for money damages authorized and instituted under Title 42 USC 1983 and 1985, and is invoked to redress the depriviation of plaintiff's rights, privileges and immunities secured to him by the Constitution and the laws of the

United States of America from persons acting under color of law, usage and custom as more particularly described hereinafter.

Demand is made for trial by jury.

II

Plaintiff is a citizen of the United States and of the State of Oregon.

III

At all times herein mentioned, Defendant City of West Linn was and is a duly organized and authorized political subdivision of the State of Oregon, and the West Linn Police Department was and is its duly authorized agency.

IV

At all times herein mentioned, Plaintiff was licensed by the City of West Linn to operate a business under the name of "R & B Decorating" started in or about 1965 under Plaintiffs name, and was located at 19886 S. White Cloud Circle, West Linn, Ore., Clackamas County and was operated from until plaintiffs disability under Social Security.

V

At all times herein mentioned defendants Schermer, David and Cherles H. Combs were members of the Oregon Bar Ass. David Schermer was and is a practicing attorney, Ch. H. Combs is presently employed by t fed. Bonneville Power Adminstration in Portland, Ore.(not as an attorney)

VI

At all times herein mentioned Jerry L Bullock is the owner of a Tow Truck Business operating in this area including West Linn, Ore.

Defendant Dennis Vote was an employee in Sept and Oct of 1978 of the local Kerr Ceneter located at MaryElhurst, Ore. approx. one mile from plaintiffs residence.

VII

At all times mentioned herein, and for three years prior thereto, there has been and is under color of law, custom and usage an invidious practice of discrimination intentionally and willfully engaged in by employees of the West Linn Police Dept and the Sheriff of Clackamas County to deprive Plaintiff of his right to life, liberty and property and to engage in commerce and business by a pattern of harassment of Plaintiff, Plaintiff's former business in continuation of this pattern experienced approx. since 1965 and which included among others the following overt acts:

(1) Arresting and imprisoning minor son for trying to hitchhike without police notification to the parents.

(2) Break-in and larceny of plaintiffs home reported by plaintiffs son to West Linn Police resulted in fabrication and falsification of public records accusing plaintiffs son of the break-in.

(3) Harressment with regard to an unenforced local law dealing with Swimming Pool enclosures.

(4) Procuring criminal process for the purpose of assulting plaintiffs reputation and Social Standing in Apr. and May of 1978 mentioned and pleaded in fed.civ.no. 81-67

During the last 3 years prior hereto the following acts were perpetrated:

The West Linn Police Dept on Sept 18, 1978 denied plaintiff police protection to stop the destruction of plaintiffs private property by Glen R. Smith and Defendant D. Vote and others who unlawfully had entered plaintiffs land held in adverse possession for appr. 15 years - known to the police Dept and for which Plaintiff had and is still paying taxes.

Special Report of the West Linn Police Dept with case No. 78-1948, and Vehicle Report with case No. 78-2112 both signed by Defendant Tegtmeyer and Crime Report 80-1004 including Suspect sheet are plaintiffs evidence of the allegations of the existance of a conspiracy under 42-1983 and 42-1985 and the conspiracy had the purpose of depriving the plaintiff, either directly or indirectly, of the equal protection of the laws or of the equal privileges and immunities under the laws and constitute overt acts in furtherance of the conspiracy, and that plaintiff suffered an injury or the depriviation of a right because of the intent of the conspirators to deprive plaintiff of the equal enjoyme: of rights secured by law to all because of his outspoken opposition to the policies of the local public schools and not allowing plaintiff to speak in the schools in defense of his childrens national background which was used to impose a mental terror on the mind of plaintiffs children. The critizism was expressed by plaintiff in the local Lutheran Church at a time when G. Olsen, Pastor was the official chaplain of the West Linn Police Dept. G. Olsen is defendant in fed. case 81-67 and plaintiff had attempted to join this action (81-866) with 81-67 and was not allowed to do so by the court.

VIII

Report 78-1948 pretents to show that the police was not called to witness a destruction but was called to witness that plaintiff had been trespassing and that a building ankered in cement had not been destroyed. The preceeding call by plaintiff had been entered into the police records by defendant Furguson as a call not to be answered because of it beeing a "civil matter". In a 3-31-81 deposition testimony was given that the person having done

the destruction incl. the mentioned building had called the police - however the records show (according to the deposition) that no call was made to the Dept and that calls to the Chief of Police are not recorded.

IX

After plaintiff had discovered the unlawful pratice of the West Linn Police Dept defendant Enderlin and Crippen continued by procuring a criminal process for the wrongful purpose and to supress and fabricate evidence to cover up defendant Enderlins overt act to persuade West Linn police officers and the Sheriff of Clackamas County of Oregon to neglect the enforcement of criminal laws which would have benefitted plaintiff.

X

On or about Oct 20, 1978 the City of West Linn entered into an agreement with defendant J.L. Bullock and others to steal plaintiffs Volkswagen automobile, place it onto a highway and have it sold by defendant Bullock for his own profit without having notified plaintiff according to the costum and usage of the Police Dept and in violation of Oregon law. Talking to defendant Bullock plaintiff learned of the malicious charcter of the act when Bullock tried to explain that his notice was returned by plaintiffs ex-wife in 1979. (She had left the residence in Dec. of 1977).

XI

Defendant Schermer, former attorney of plaintiff who had pretended

among others to protect plaintiffs rights against the malicious trepass actic developed with the help of the city of West Linn called me together with the attorney for A-T Industries a thief for trying to quiet title for property plaintiff held since appr. 1964 and he did this at a time when plaintiff had confronted him among others with the question why he would not bring in the City of West Linn with the information (contained in this complaint) which he had received from plaintiff beginning with Feb. of 1979 and ending at the time of his resignation on or about Apr. of 198

XII

Defendant Combs had become involved in the conspiracy in behalf of his client Glen R. and Doris Smith to the point of Contempt of Court (revealed during the deposition taken from him on 3-31-81) by which he tried to cover up his initial advise to his client to take the law in to their own hand and to proceed with trespassaction after cooperation with the City of West Linn and plaintiff; former attorney D. Schermer was assured, because an action of the registered real owner would have resulted in an immidiate defeat and a loss to defendant Combs client.

XIII

At all times herein mentioned, defendant A.R. Enderlin was and is employed as Chief of the West Linn Police Dept, Defendant Crippen is employed as a detective of the West Linn Police Dept, D.L. Furguson is employed by the West Linn Police Dept as Record Supervisor and defenda J.W. Tegtmeyer was employed as police officer of the West Linn Pol. Dept. and Paul McAllister is the Sheriff for Clackamas County of Oregon .

XIV

All defendants acted jointly and severally and in concert in

doing the acts and things above complained of, defendants were conspirato with others engaged in a scheme and conspiracy designed and intended to deny and deprive plaintiff of rights guaranteed to him under the constitution and laws of the United States, as hereinabove enumerated. The acts and things complained of were done with the sanction and approval of the defendant City of West Linn and its Police Dept.

XV

Adding and Supplementing - to describe the actions of the Sheriff of Clackamas County jointly, severally and in concert with the defendants and in conspiring with the City of West Linn starting from 1974 up to two month after this complaint was filed:

(1) The Sheriff had participated in the fabrication and falsificati of public records in the incident listed under (2) of par. VII. A false witness under the cover of a suspect had been supplied by the Sheriff to take the Police Report off the record in which defendant Crippen maliciousl, had accused plaintiffs son to have done the break-in.

(2) For a Small Claims Hearing on Feb 13, 1980 in Clackamas County, State of Oregon, District Court, Judge Burns presiding (Case No. SC79-21324) an employee of Clack. Co. R.S. Danforth 4368 Imperial Dr., West Linn had been subpeaned by plaintiff and the Sheriff had been contracted to serve the subpeana. No attempt had been made to serve it and plaintiff was denied judgment for $ 570.92 including $ 379.92 interest on on Contract with Clackamas County, signed by R.S.Danforth. The contract had the loan No. 006-01 and was financed by the fed. government. Payment for the excecuted contract has not been received by plaintiff at this point. The original contract was for $ 4,930.00. Additional work without pay was rejected by plaintiff because of unvolunteer servitude clause of the 13th Amendment and the Violation of the 13th amendment rights by Clackamas County was made part of fed. 81-67 (def. Clyman conspiring with the County). Subsequent clai vs. Danforth's superior in SC792328 was delivered 2 days toolat

(3) On Mar 13th 1981 plaintiff was arrested in the Clackamas Co. Courthouse by a Sheriffs Deputy. Plaintiff was denied to see a arrest warrent and denied the opportunity to talk

to his attorney before he was transported as prisoner from the holding facility of the Courthouse to the County Jail.
(Lettr. to DC of 3-13-81 in fed. No. 81-67).

(4) With regard to the act complained of in par VII of this complai starting on page 3, line 21 and par IX, page 5. The sheriff denies to have been on the scene of the crime of Sep. 18, 1978. Witness testimony is supporting plaintiffs allegation in contra hereto. The Police Report 80-1804 on the crime is delibertly not stating that the Sheriffs Officer was on the scene testifie to by defendant Vote.

D. Vote

On Oct 14, 1981 had left the Clackamas County Jurisdiction with the help of the Sheriff who reported on Oct 15 that Vote had moved to another county. The record shows that three attempts were made to serve, the last time on Sept 29, 1981. The date of the summons was Sept 22, 1981, made out for D.Vote.

Plaintiff learned of the removal of Vote by inquiry to the Oregon City Postmaster in Nov. of 1981.

XVI

That defendants actions as aforesaid have caused plaintiff to be deprived of his rights, privileges and immunities to the pursuit of life, liberty and property under the Fourteenth Amendment of the U.S. Constiuti to be free from unlawful searches and seizures as guaranteed by the Fourth and Fourteenth Amendment of the U.S. Constitution, to be secure from beeing deprived of liberty and property without due process of law under the Fifth and Fourteenth Amendment of the U.S. Constiution, and to be denied the rights under the 1st Amendment of the U.S. Constitution and the rights reserved to plaintiff in the Sixth, ninth and tenth amendment of the U.S. Constitution, to suffer emotional and mental distress, intimidation, harassment, embarrassment, suffering reputation and interference with loss of business all to plaintiffs damage of at least $ 1,500,000.00

XVII

Defendants' acts were malicious and willful and with a concious disregard of plaintiffs rights, privileges and immunities as secured to him by the United States Constitution. Punitive damages should be assesse against ~~defandants~~, and each of them, in the sum of at least $ ~~1,500,000.00~~.

XVIII

Defendants have caused plaintiff to incure ~~reasonable~~ attorneysfee expenses and costs, and defendants should be assessed reasonable attorney's fees and costs on plaintiff's account.

XVIX

Plaintiff has no plain, adequate or complete remedy at law. Plaintiff has suffered and will continue to suffer irreprirable injury because of the invidiously dicriminatory policy, practice, custom and usage of defendants against plaintiff as set forth above.

WHEREFORE, plaintiff respectfully prays for judgment and decree as follows:

(1) Permanently enjoining defendants, their sucessors, employees, agents and those acting in concert with them, from continuing or maintaining a policy and practice of intimidation, harassment, annoyance, embaressment and interference with plaintiff.

(2) Awarding to plaintiff damages against defendant City of West Linn Arthur R. Enderlin, Gerald Crippen, Donna Lee Furguson, John W. Tegtmeyer, David Schermer, Charles H. Combs, Paul McAllister, Sheriff of Clackamas County for the State of Oregon and Dennis Vote, and each

of them, in the sum of at least $ 1,500,000.00.

(3) Awarding to plaintiff punitive damages against defendants City of West Linn, Arthur R. Enderlin, Gerald Crippen, Donna Lee Furguson, John W. Tegtmeyer, David Schermer, Charles H. Combs, Paul McAllister, Sheriff of Clackamas County for the State of Oregon and Dennis Vote, and each of them, in the sum of at least $ 1,500,000.00.

(4) Awarding to plaintiff reasonable attorney's fees against defendant City of West Linn, Arthur R. Enderlin, Gerald Crippen, Donna Lee Furguson, John W. Tegtmeyer, David Schermer, Charles H. Combs, Paul McAllister, Sheriff of Clackamas County for the State of Oregon and Dennis Vote, and each of them, in the sum of $ _____, and for plaintiffs costs and disbursements therein.

(5) Granting plaintiff additional and further equitable relief as the court may deem just and proper.

Rolf Bette

ROLF BETTA, In Pro Per

DATED: Jan 27, 1982

CERTIFICATE OF MAILING

I, Rolf Bethe, hereby certify that a copy of AMENDED COMPLAINT FOR DEPRIVATION OF CIVIL RIGHTS, INJUNCTION AND DEMAND FOR JURY TRIAL - INCLUDING SUPPLEMENT, dtd Jan 27, 1982 was mailed Jan 29, 1982 to the known attorneys of opponents in this cas as follows:

William A. Davis
Jeffrey Hill
Wolf, Griffith, Bittner
Abbott and Roberts
1, SW Columbia
Portland, Ore. 97258

for defendants
Schermer and Combs

Ronald D. Kelley, Esq.
H. Neal Wilson, Esq.
Gallagher, Wilson, Kelley, Johnson
Fundamental Life Building
1200 Willamette Center
121 SW Salmon Street
Portland, Ore. 97204

for Intervenor-Pltf. Oregon Nurses Assn., and Mary Ann Lynn, and their present employees Intervenor-Pltfs. Dixon, and M. Clyman

DATED: Jan 27, 1982

Rolf Bethe
ROLF BETHE

Page

Entered on the Docket on 2-19-82
ROBERT M. CHRIST
By Deputy

Endorsed
Filed 2-18-82
ROBERT M. CHRIST, CLERK
By Deputy

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ROLF BETKA, Plaintiff,	)	
v.	)	Civil No. 81-866
CITY OF WEST LINN, et al., Defendants.	)	FINDINGS AND RECOMMENDATION AND ORDER

This is a pro se civil rights action brought under 42 U.S.C. §§ 1983 and 1985. The complaint alleges a variety of claims against the West Linn Police Department and several individual defendants. Six motions are now before the court.

I. Defendant Schermer's Motion for Entry of Final Judgment #49

My Findings and Recommendation of November 24, 1981 (Doc. #29) recommended that defendant Schermer's motion to dismiss be granted on the grounds that plaintiff failed to allege facts sufficient to constitute a claim within the meaning of 42 U.S.C. § 1983 or § 1985. On December 31, 1981, after considering plaintiff's objections to my Findings and Recommendation, Judge Burns entered an order (Doc. #44) granting defendant Schermer's motion to dismiss. Defendant Schermer now moves for an order directing the entry of final judgment on his behalf pursuant to Fed. R. Civ. P. 54(b).

When multiple parties are involved, as in this case, Fed. R. Civ. P. 54(b) allows judgment as to fewer than all the parties only upon an express determination that there is no just reason to delay

/ / /

the entry of judgment as to a single defendant. In deciding whether there are no just reasons to delay individual final judgments, the court must consider judicial administrative interests as well as the equities involved. Curtiss-Wright Corp. v. General Electric Co., 446 U.S. 1, 8 (1980). The strong federal policy against piecemeal review prohibits the routine entry of partial judgments. Id. at 10. Because the claims in this action are closely related and there is a risk of repetitive appeals, the judgments as to all defendants in this case should be entered simultaneously. Therefore, defendant Schermer's motion for entry of final judgment is denied until the entire case is disposed of.

II. Plaintiff's Motion to Amend Findings #47

Plaintiff also moves to amend my Findings and Recommendation of November 24, 1981 (Doc. #29). In this Findings and Recommendatio I recommended that defendant Schermer's motion to dismiss be granted Following this recommendation, Judge Burns entered an order (Doc. #44) granting Schermer's motion to dismiss. In this motion to amend, plaintiff makes no arguments that were not before me at the time I made my original Findings and Recommendation. Therefore, I decline to amend my Findings and this motion is denied.

III. Plaintiff's Motion for Reconsideration #52

Plaintiff also moves for reconsideration of "U.S. Magistrates Order." I assume plaintiff is referring to my order of January 7, 1982 which denied his motion to amend the complaint. The ground for the present motion for reconsideration is that my prior rulings "are clearly erroneous and contrary to law." In the prior order, I set forth the reasons why plaintiff's motion was being denied. Plaintiff offers no coherent argument why my earlier reasoning is erroneous. Therefore, I decline to reconsider my order of January 7 1982 and this motion is denied.

/ / /

/ / /

IV. Plaintiff's Motion to Amend Findings and Motion for Reconsideration #57

Plaintiff also moves for reconsideration and to amend my Findings and Recommendation of December 15, 1981 (Doc. #39) which recommended that the claim against defendant Combs be dismissed on the grounds that the complaint fails to state a claim against Combs under 42 U.S.C. § 1983 or § 1985. On January 14, 1982, Judge Redden, following my recommendation, granted Combs' motion to dismiss (Doc. #50). Because plaintiff offers no reasons for reconsideration or amendments that were not before me when I issued the December 15 Findings and Recommendation, and because the claim against Combs should be dismissed for the reasons stated in the December 15 Findings and Recommendation, I decline to reconsider or amend those findings. This motion is therefore denied.

V. Defendants' Motion for Judgment on the Pleadings #48

Defendants City of West Linn and the employees of the City's Police Department, Arthur R. Enderlin, Gerald Crippen, Donna Lee Ferguson and John W. Tegtmeyer move for an order granting judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c). The grounds for the motion are that plaintiff has not alleged facts sufficient to constitute a claim under 42 U.S.C. §§ 1983 and 1985, and that plaintiff's complaint is barred by the applicable statute of limitations. Plaintiff filed a memorandum in opposition to this motion (Doc. #53) but did not address the statute of limitations issue.

The applicable limitations period for federal civil rights claims in Oregon is two years under ORS 30.275(3). Kosikowski v. Bourne, 659 F.2d 105 (9th Cir. 1981). The complaint was filed in this action on September 17, 1981. Plaintiff's § 1983 claim is time-barred because the complaint alleges no act or occurrance constituting a violation of civil rights which occurred within two years of the filing of his complaint.

Plaintiff's § 1985 claim is also time-barred because plaint:

has failed to plead that any overt act in furtherance of the alleged conspiracy took place after September 17, 1979. In his prayer for injunctive relief, plaintiff has alleged that the conspiracy continues to exist. However, there are no facts alleged in the complaint to support this statement. Such a conclusory allegation of conspiracy is insufficient to constitute a claim under § 1985. See Griffin v. Breckridge, 403 U.S. 88, 102-103 (1971).

Because plaintiff's civil rights claims are time-barred, the above-named defendants' motion for judgment on the pleadings should be granted.

VI. Plaintiff's Motion for Leave to File a Reply to Answer of City of West Linn #41

Plaintiff has also filed a motion for leave to reply to the answer of the City of West Linn. Although plaintiff has not attached the actual reply, he has described its potential contents in his motion. Because such a reply would serve no purpose in light of my conclusion that plaintiff's claim against the City of West Linn is time-barred, this motion is denied.

VII. Conclusion

IT IS ORDERED that:

1. Defendant Schermer's Motion for Entry of Final Judgment (Doc. #49) is denied;

2. Plaintiff's Motion to Amend Findings (Doc. #47) is denied;

3. Plaintiff's Motion for Reconsideration (Doc. #52) is denied

4. Plaintiff's Motion to Amend Findings and Motion for Reconsideration (Doc. #57) is denied;

5. Plaintiff's Motion for Leave to Reply to Answer of City of West Linn (Doc. #41) is denied.

Defendants' Motion for Judgment on the Pleadings (Doc. #48) should be granted.

Dated this 18 day of Feb, 1982.

George E. Juba
United States Magistrate

Clerk's

Endorsed: 3/1/82
Filed
ROBERT M. CHRIST, CLERK
By _____ Deputy

4D 4

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

81-866

ROLF BETKA,

Plaintiff,

vs.

CITY OF WEST LINN, ET AL.,

Defendants.

MOTION FOR RECONSIDERATION OF ORDERS BY U.S. MAGISTRATE, DTD 2-18-8
AND
OBJECTIONS TO U.S. MAGISTRATES FINDINGS AND RECOMMENDATIONS, DTD 2-18-8

EXPEDITED HEARING REQUESTED

Plaintiff is moving the court for reconsideration be given authoriz under Title U.S.C. 28-636 (b)(1)(A), line 9-12 to the following orders issued by U.S. Magistrate Juba on Feb 18, 1982 for the following reasons:

As to Paragraph II, Order denying plaintiffs motion to amend findings submitted Jan 11, 82

Plaintiffs motion in contrast to the FINDINGS is stating an argument with proof not before the court as also stated in (Doc 29), line 27-32. Plaintiff showed that an action under 42-1863 and 1885 is before the court which incl. def. Schermer, Combs the other defendants and defendant named in 81-67.

The FINDINGS of 11-24-81 (Doc 29) had not taken in plaintiffs motion to amend the complaint of 11-12-81 after Schermer had moved for dismissal on 10-9-81 and plaintiffs motion was denied to serve Memorandum in opposit

The COMPLAINT against Schermer, Combs and others who are liable is involving a conspiracy to deprive plaintiff of "liberty" and property interests and the allegations and proofs submitted show that it is still going on. Proof hereto is (Doc 18) which shows the Returns were not delivered to the court by def. P.McAllister up to this date and together with the earlier documantation made by plaintiff also shows that the same defendant had suggested the removal of a co-defendant out of his jurisdiction of Clackamas County in anticipation of a real estate matter to be settled in the court of this county in case plaintiffs appeal in fed. civ. 81-42 is unsucessful.

The violations complained of are covered by federal law and the fed. District Court has original jurisdiction over the case which is linked with civ. no. 81-67 and 81-425.

Schermer had joined the 81-67 conspiracy which was directed against (1) plaintiffs "liberties" under the U.S. Const. involving the right of raising children accord-ing to his standards and as only U.S. Citizen in the family at the time of plaintiffs divorce in Dec. of 1977. The duty of a state judge to respect and protect plaintiffs rights under the constitution was denied (2)plaintiffs property rights evolving from the divorce suit based on fraudulent allegations were continued by def. Clyman and others(explained in 81-67 (fed) violating the good faith requirements of the and committed criminal offenses with the help of immune judges of the State of Oregon to obstruct and pervert justice, and (3) deny plaintiff due process guaranteed by the 14th amendment of the U.S. Const, and (4) maliciously procesute and persecute plaintiff for having practiced his 1st Amendment right of free speech in defense of his civil rights

to the point of having violated the vested rights of plaintiff to operate an insured business on his residential and adverse held property as taxp which was violated and purposefully assisted by the defendants of civ. no. 81-67. The civil rights mentioned was (1) the right of not beeing exposed to deprivistions and (2) denials of equal protection under the law.

As to Paragraph III, Order denying plaintiffs motion for reconsideration submitted Jan 18, 1982

To the motion above an Amended motion was submitted Jan 26,82 with Objection to Order by U.S. Magistrate appointing himself U.S.Judge in the absence of local rules provided for under 28-636 (4). In addition to the amendment plaintiff submitted a Sworn statement on page 2 of Motion for consolditation of Jan 18,82. In these additional papers plaintiff had submitted argument why the earlier reasoning in par. 1 of FIND. & REC of Jan 7,82 was clearly erroneous and contrary to law.

Before any ruling was issued Judge Redden granted Combs Motion for dismissal on Jan 14, 82

As to Paragraph IV - Plaintiff Motion to Amend Findings under Rule 52 and rehearing under Rule 59 of Fed. Rule of Civ. Proc., dtd Jan 24,1982

As stated on line 14 and 15 of this Judge Redden had dismissed the actiom against Combs premeturely before facts and evidence were submitted with a slight technical mistake on the part of pro per plaintiff on Jan 1 and Jan 26 under Title 28-636(b)(1)(A).

Contrary to line 9 - 13 of the 2-18-82 Order the additional papers contained proof of evidence not before the court on Dec 15-81 and therefo the Order denying the two motions is clearly erroneous and contrary to la

As to paragraph V - Defendants Motion for Judgement on the pleadings

SWORN STATEMENT

After I had received the FINDINGS and RECOM. of Feb 18,1982 I became aware on Feb 25 that I had submitted my Memorandum in opposition to def. motion by mistake and or neglect without page three (3) and four which got lost while I had made copies in the Print Right Copy Shop in Lake Oswego where I found them Feb 26,82. Plaintiff (I) gave notice on Feb 25 to the opposing counsels of my mistake.

I am attching the subject pages three and four as Exhibit "A" and "B'

I, Rolf Betka, declare under penalty of perjury that the foregoing is true and correct and that the attached pages 3 and 4 are the original pages which got lost as explained.

DATED: Feb 27,1982

Under authority of FRCP, Rule 59 and 60b(6) plaintiff is moving the court for a new ruling and/or relief to secure the just,speedy and inexpensive determination of this proceeding, especially in the light that not only plaintiff alone had overlooked the fact of the missing two pages.

As to Paragraph VI - Plaintiff's Motion for Leave to File a Reply to Answer of City of West Linn

If plaintiffs requested reply would have been granted the substance of it would have been the following:

Plaintiff would have listed all requests made under the law and not complied with as proof for the still ongoing conspiracy.

The testimony of the defendants revealed that the West Linn Police

and their supporters kept surveillance and are still keeping surveillance over plaintiffs property.

Plaintiff would have alleged that defendant A. Enderlin knew of plaintiffs holding of the property as taxpayer at least from the time the vacant property was incorporated into plaintiffs residental lot - and this was done in 1968, by the Assessor of the County of Clackamas.

Because of the conspirators action described in 81-425 civ. no. DC of Oregon and 81-8613 C.A. and 81-866 civ. no. D.C. plaintiffs superior title over that of plaintiff in 81-425 is defeated with the help of ORS 105.110 allowing a change of the status quo contrary to law and leavi the defeated party to the remedy in Replevin for money damages only.

No undertaking was required from plaintiff when possession of the property was transfered to him with authority of ORS 32.020 stating under (3) (b) to "prevent unlawful conduct when the effect of the injunction is to restrict the enjoined party to available judicial remedies"

The remedy is violative of plaintiffs right to property and "liberty" as expressed in the 5th and 14th Amendment and federal Laws which arenot allowing an action of Ejectment to be replaced by an fraudulantly instiga action for Trespass and than protecting the purpotraters action by taking the property into the custody of the court to prevent it to come in conflict with ORS 105.110 which reads " When a forcible entry is made upon any promises, or when an entry is made in a peacable manner and possession is held by force, the person entitled to the premises may maintain in the county where the property is situated an action to recover the possession thereof in the circuit court, district court or before any justice of the peace of the county."

The constitutional Law under 787(8) is stating and holding "that notice and hearing must be granted at a time when the depreviation can still be prevented ...

Fuentos v. Shervin 92 SCt 1983, 407 U.S. 67, 32 LEd2nd556 rehearing denie 93 SCt. 177, 409 U.S. 902, 34 LEd 2nd 165

In addition to ORS 105.110 plaintiffs case is also under the rule issued by the SCt of the State of Oreg. in ORE 8, 426, Appollonia Phillipi , respondent v. Anaias Thomson, app. and would restrict plaintiff to the action in replevin which does not address plaintiffs rights to property and "liberty".

Plaintiff is suggesting therefore to the courts having federal jurisdicti over the matter to declare ORS 105.110 to be invalid according to the standards set by the Constitution of the U.S. and federal laws.

The notice and hearing requirements of constitutional law as cited was defeated by the actions of the conspirators as described and was done under color of Law and Authority in violation of the 14thAmendment of the U.S. Constitution.

Monell v. Dept of Social Servicees 436 U.S. 568, 57 LEd2nd 611 98 SCt 201 is holding that municipality is "person" and liable under Tile 42-1983 for violating another persons fed. protected right.

Owen v. City of Independence, Mo., 100 SCt 1398 (1980) is holding under (5) Civil Rights - A municipality has no immunity from liability under the civil rights act flowing from its constitutional violations and may not assert the good faith of its officers as a defense to such liability.

DATED: March 1, 1982

Rolf Betka

CERTIFICATE OF MAILING

I, Rolf Betka, hereby certify that a copy hereof was mailed on 3-1-82 to the follow Wolf,Griffith,Bittner, Abbott & Roberts, 1 SW Columbia, Portland, Ore.972 Bullivant, Wright, Leedy,Johnson,Pemdergrass & Hoffman,121SW Salmon,Portl Ore. 97204.

DATED: March 1, 1982

Rolf Betka

c. Tegtmeyer - Special Pol. Report, dtd 9-18-78, 78-1948 Evidence of assisting intruder and perpetrator of crime 80-1804 Exhibit "F"

d. Enderlin and Crippen, Crime report of occurance of (c) dtd 7-17- 80, falsification of reports to cover up involvment of police as stated under (c)., Exhibit "G"

e. Furgeson, p 4 line 20-25, Smith p 18, line 8-16 together with (2), evidence of falsification of police records for the benefit of malicious and discriminatory policy of City of West Linn, exhibit "H" and "I".

f. City of West Linn, Ltr. of 8-11-80 as evidence of malicious prosecution and attempt to cover up the conspiracy involving Bullock who had stolen and sold in conspiracy with West Linn plaintiffs car. The State of Oregon Motor Vehicle Div. has confirmed that no permission was issued ever to Bullock for selling the car. Exhibit "J"

City of West Linn, ltr of 4-13-81, Tickets produced by West Linn for the period between 1976 and 80 shows that no ticket such as mentioned in letr under (f) was issued. The ticket mentioned was issued against plaintiff for the the sole purpose of covering up the malicious act of the conspiracy including the theft of plaintiffs car. Exhibit "K" Ltr of 2 -10 -79 evidence of violation of Constitution, additic Exhibit "L"

The listings in par VII (1 - 4) were pleaded to proof malice. No. 4 of the listing was a sucessfully procured criminal process against plaintiff without any cause. Def. H. Clyman (def. in 81-67) conspired with the City to prevent plaintiff from suing the City as explained in plaintiffs Motion for Consolidation of action 81-866 with 81-67.

As to Paragraph II of defendants motion dealing with the Statute of Limitation.

1. The last act in the conspiracy under 1985 or 1983 as outlined under 4., page 2 was committed on 7-17-80 Exhibit "G" exluding Bullock. The last action including Bullock was done on 8 - 11-80, exhibit "J".

EXHIBIT "A"

2. Plaintiff delivered the statutory Tort notice on Jan 8, 1981 within the 6 month statutory period. Exhibit "M"

3. Statute of Limit. for acts covered under Title 42 - 1983 is three years.

The notice requirements were successfully challanged with regard to due process in Grousbaugh v. St. Johns (1970) 384 Mich 165,180 NW 2nd778.
with regard to equal protection:
Reich vs. State Highway Dept (1972) 386 Mich. 617,194 NW 2nd 700.

In replying to defendants assertion that the present action is barred by the shorttime limitation prescribed by ORS 30.275(plaintiff admitts that such statute purports to bar the action. However plaintiff alleges that the two year period does not afford full opportunity for resort to the courts for enforcemen of the rights on which the limitation is intended to operate. On the contrary, it is unreasonable and violative of plaintiffs right to due process as guaranteed by the 14th Amendment to the U.S. Constitution. The Oregon statute ORS 30.275(3) is thus invalid and should be so declared by this court.

CONCLUSION

For the reasons set forth above, Plaintiff respectfully request that this court dismiss defendants Motion for judgment on the Pleading on the basis that this motion and the earlier answer had been entered to defeat the purpose of Fed. Rules of Civ. Procedure, rule 11. Plaintiff had pointed out in an earlier pleading that the answer was a fraud and therefore false. Rule 11 provides that false pleadings may be stricken

EXHIBIT "B"

DISTRICT OF OREGON

CIVIL MINUTES — GENERAL

Case No. 81-866 Date April 19, 1982

Title: Betka v. City of West Linn, et al

DOCKET ENTRY

Order denying pltf's motion for reconsideration (73).

PRESENT:

HON. GEORGE E. JUBA JUDGE

K. McCauley
Deputy Clerk

Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

"E"

PROCEEDINGS:

cc: Rolf Betka
19886 S White Cloud Circle
West Linn, OR 97068

William A. Davis
Jeffrey Hill
One SW Columbia
Portland, OR 97258

S. Joel Wilson
SULLIVANT, WRIGHT, LEEDY, JOHNSON,
PENDERGRASS & HOFFMAN
1000 Willamette Center
121 SW Salmon Street
Portland, OR 97204

Kino

1

Initials of Deputy Clerk

U.S. DISTRICT COURT
DISTRICT OF OREGON
FILED
MAR 17 1982
ROBERT M. CHRIST, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ROLF BETKA,

Plaintiff,

vs.

CITY OF WEST LINN, et al,

Defendants.

CIVIL NO. 81-866

JUDGMENT

Based on the record,

IT IS ORDERED AND ADJUDGED this action is dismissed.

DATED: March 17, 1982.

UNITED STATES DISTRICT COURT CLERK

Entered on the Docket on 3-19-82 ROBERT M. CHRIST By [illegible] Deputy

U. S. DISTRICT COURT
DISTRICT OF OREGON
FILED
MAR 19 1982
ROBERT M. CHRIST, CLERK
BY DEPUTY

G

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ROLF BETKA,

Plaintiff,

v.

CITY OF WEST LINN, et al,

Defendants.

Civil No. 81-866

AMENDED JUDGMENT

Pursuant to Rule 60(a) of the Federal Rules of Civil Procedure, the judgment entered March 17, 1982, (document No. 81) is amended to read:

"IT IS ORDERED this action is dismissed with respect to the City of West Linn, Arthur R. Enderlin, Gerald Crippen, Donna Lee Furguson, and John W. Tegtmeyer."

DATED this 19 day of March, 1982.

UNITED STATES DISTRICT JUDGE

FILED

Entered on the Docket on 7-1-82

JUN 30 1 57 PM '82

CLERK, U.S. DISTRICT COURT
DISTRICT OF OREGON

BY _____

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ROLF BETKA, Plaintiff,	)	Civil No. 81-866
v.	)	ORDER
CITY OF WEST LINN, a subdivision of the State of Oregon, ARTHUR R. ENDERLIN, GERALD CRIPPEN, DONNA LEE FERGUSON, JOHN W. TEGTMEYER, JERRY L. BULLOCK, DAVID SCHERMER, CHARLES H. COMBS, JOE DOE, SHERIFFS DEPUTY OF CLACKAMAS COUNTY, and DENNIS VOTE, Defendants.	)	

Plaintiff moved to amend findings (#88), to add party (#89), to amend complaint (#90), and for an injunction and three judge court (#91). I took these motions under advisement on the not-for-argument calendar on April 26, 1982.

In the interim, the clerk entered default against Bullock and Vote (#92), and Judge James A. Redden granted McAllister's motion to dismiss (#95). Plaintiff then amended his motions pending before me (#s 97, 98, 100), moved for a preliminary hearing on defenses (#101), and for an enlargement (#102). Magistrate George E. Juba denied plaintiff's motion for a preliminary hearing (#106) and recommended entry of final judgment for Schermer and Combs (#107).

Defendants City of West Linn, Enderlin, Crippen, Ferguson, and Tegtmeyer have moved for entry of final judgment

(#108). Plaintiff has moved to strike pleadings (#109) and has objected to Magistrate Juba's latest Findings and Recommendation (#110).

In the interest of judicial economy and efficiency, I will consider all pending matters.

Plaintiff could have amended his complaint in December 1981 (#s 37, 45). He did not do so. Judge James M. Burns granted Schermer's motion to dismiss on December 31, 1981 (#44). Judge Redden granted Combs' motion to dismiss on January 14, 1981 (#50). Judge Robert C. Belloni granted defendants' City of West Linn, Enderlin, Crippen, Ferguson, and Tegtmeyer motion for judgment on the pleadings on March 15, 1981 (#80). Judge Redden entered an amended judgment dismissing City of West Linn, Enderlin, Crippen, Ferguson, and Tegtmeyer on March 19, 1982 (#82). Judge Redden denied certification for immediate appeal on March 23, 1982 (#85).

Plaintiff now wishes to add the Clackamas County Board of Commissioners (#89), and to add jurisdictional allegations to his complaint (#90). Plaintiff has not shown sufficient cause for amendment at this stage of the proceedings, and I DENY the motions to amend (#s 89, 90, 98, 100). I also DENY his motion to amend findings, to alter judgment, and for relief from the previous dismissals (#s 88, 97), the request for an injunction and three judge court (#91), the motion for enlargement (#102), and the motion to strike pleadings (#109).

I have reviewed de novo Magistrate Juba's denial of plaintiff's motion for preliminary hearing (#106) and recommendation for entry of final judgment (#107). I APPROVE AND ADOPT the ruling and recommendation.

In light of the entry of final judgment for Schermer and Combs and the default of Bullock and Vote, I GRANT defendants' City of West Linn, Enderlin, Crippen, Ferguson, and Tegtmeyer motion

for entry of final judgment.

The clerk is directed to enter judgment accordingly.

This case is now closed. No motions for reconsideration will be considered. The clerk is ordered not to accept for filing any further documents in this case (except documents relating to an appeal) without first securing permission from the court. Betka v. State of Oregon, No. 81-67 (D. Or. Oct. 27, 1981) (Frye, J.) (identical order).

IT IS SO ORDERED.

DATED this 30 day of June, 1982.

Owen M. Panner
United States District Judge

FILED

Entered on the Docket on 7-6-82
ROBERT M. CHRIST By [illegible] Deputy

JUN 30 4 07 PM '82
CLERK, U.S. DISTRICT COURT
DISTRICT OF OREGON
BY _____

"I"

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ROLF BETKA,

Plaintiff,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon, et al.,

Defendants.

CIVIL NO. 81-866

JUDGMENT

This action is dismissed.

DATED June 30, 1982.

ROBERT M. CHRIST, CLERK

by Donald M. Cinnamond, Chief Deputy

16

Jul 26 4 31 PM '82
CLERK, U.S. DISTRICT COURT
DISTRICT OF OREGON
BY _____

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ROLF BETKA, Plaintiff, v. CITY OF WEST LINN, a subdivision of the State of Oregon, ARTHUR R. ENDERLIN, GERALD CRIPPEN, DONNA LEE FERGUSON, JOHN W. TEGTMEYER, JERRY L. BULLOCK, DAVID SCHERMER, CHARLES H. COMBS, PAUL McALLISTER, SHERIFF OF CLACKAMAS COUNTY OF STATE OF OREGON, DENNIS VOTE, Defendants.	Civil No. 81-866 AMENDED JUDGMENT

There is no just reason for delay. Fed.R.Civ.P. 54(b). This action is DISMISSED with respect to defendants City of West Linn, Arthur R. Enderlin, Gerald Crippen, Donna Lee Ferguson, John W. Tegtmeyer, David Schermer, Charles H. Combs, and Paul McAllister, Sheriff of Clackamas County.

DATED this 26 day of July, 1982.

OWEN M. PANNER
United States District Judge

115

FILED

Entered
Filed July 8, 1983
ROBERT L. CHRIST, CLERK
By [signature]
Deputy

JUL 8 9 13 AM '83
CLERK U.S. DISTRICT COURT
DISTRICT OF OREGON
BY [signature]

FILED
JUL 06 1983
PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROLF BETKA,

Plaintiff-Appellant,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon; ARTHUR R. ENDERLIN; GERALD CRIPPEN; DONNA LEE FURGUSON; JOHN W. TEGIMEYER; JERRY L. BULLOCK; DAVID SCHERMER; CHARLES H. COMBS; JOE DOE, Sheriff's Deputy of Clackamas County; DENNIS VOTE; PAUL McALLISTER, Sheriff of Clackamas County of State of Oregon,

Defendants-Appellees.

No. 82-3474

DC# CV 81-866 OMP
Oregon (Portland)

ORDER

"K"

Before: SNEED and ALARCON, Circuit Judges.

Appellant's "motion for judgment for relief from order 3-29-83" is denied without prejudice. Within 21 days of the entry of this order, appellant shall either (1) post the bond required by the court's order of December 22, 1982 and file proof in this court that he has done so, or (2) file in the district court a motion to reduce the amount of the bond to an amount within his means. If appellant files such a motion in the district court, it shall be supported by an affidavit

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setting forth his financial status and providing specific information as to income, assets and expenses.

If appellant fails to comply with this order, appellees may renew their motion to dismiss this appeal for lack of prosecution.

Appellant's request for appointment of special prosecutor and his complaint for declaratory judgment are denied.

McCal 3/14/83

RECEIVED
PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS
JUL 25 1983

IN THE UNITED STATES COURT OF APPEALS

FILED 7-25 dmc
DOCKETED DATE INITIAL

FOR THE NINTH CIRCUIT

ROLF BETKA,

Plaintiff-Appellant,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon; ARTHUR R. ENDERLIN; GERALD CRIPPEN; DONNA LEE FURGUSON; JOHN W. TEGTMEYER; JERRY L. BULLOCK, DAVID SCHERMER; CHARLES H. COMBS; JOE DOE, Sheriff's Deputy of Clackamas County; DENNIS VOTE; PAUL McALLISTER, Sheriff of Clackamas County of State of Oregon,

Defendants-Appellees.

CA No. 82-3474

DC No. CV 81-866 OMP
Oregon (Portland)

L

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Rolf Betka the plaintiff above named, hereby appeals to the Supreme Court of the United States from (1) the final order of July 6, 1983 denying Motion for relief from posting Cost Bond on the basis of exlusive federal jurisdiction as pleaded by appellant in the Motion and in the brief with authority of Title 28-1337 and 42-2981 (Community Service Act of 1974, ch VII under National Housing Act) and involving crime against appellants personal property protected by Title 18-2312 and 13, from (2) the same order which is including 2 adverse rulings on appellants motion to amend summons to comply with complaint for depreviation of civil rights and complaint for declatory judgment filed and served in the Court of Appeals, and from (3) the same order denying complaint for declatory judgment.

The order is dismissing the appeal entered on the basis of federal exlusive jurisdiction with Notice of Appeal dtd Aug 23, 1982 and Amendments of Dec 23, 1982 and Jan 3 and Jan 31, 1983.

With date of July 13 appellant had filed Objection and Motion for Rehearing on the Order denying the complaint for Declatory Judgment for the purpose of certifying the involved evidence and arguments which might be considered by the Supreme Court as matters touching United States Foreign policy., and determination authorized under FRCP 23(c).

This appeal is taken pursuant to Title 28, United States Code, Section 1253 and 1651, 28-2106 and 28-2201 and 2202.

DATED: July 22, 1983

ROLF BETZ, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

AFFIDAVIT OF SERVICE

STATE OF OREGON)
) ss.:
County of Clackamas)

I, Rolf Betka, the plaintiff-appellant in this case, beeing first duly sworn deposes and says:

On July 22, 1983, a true and correct copy of the foregoing NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES was served on the following individuals by depositing same in the United States Mail in Lake Oswego, Ore., enclosed in a sealed envelope with postage thereon fully prepaid and addressed as follows:

William A. Davis, J. Hill
One SW Columbia
Portland, Ore. 97258
for defendant Schermer and Combs

Sullivant, Wright, Leedy, Johnson
Pendergrass and Hoffman
R. E. Bailey, S. Joel Wilson
J.A. Geary
1000 Willamette Center
121 SW Salmon Street
Portland, Ore. 97204
for defendant City of West Linn and its defendant employees

Keith Kinsman
Asst County Counsel
906 Main Street
Oregon City, Ore. 97045
for P. McAllister and Joe Doe Sheriff and Deputy of Clackamas County, State of Oregon.

Defendant Jerry L. Bullock and Dennis Vote have made no appearance.

DATED: July 22, 1983

R. Betka
ROLF BETKA

Sworn to before me, July 7, 1983
NOTARY PUBLIC for Oregon
My commission expires:

RECEIVED
PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS
SEP 6 1983
FILED
DOCKETED
DATE INITIAL

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROLF BETKA,

Plaintiff-Appellant,

v.

CITY OF WEST LINN, a subdivision of the State of Oregon; COUNTY OF CLACKAMAS; State of Oregon; ARTHUR R. ENDERLIN; GERALD CRIPPEN; DONNA LEE FERGUSON, JOHN W. TEGTMEYER; K.E. HOWE; E.L.KIMBLE; J.SUIRE; JERRY L. BULLOCK; DAVID SCHERRER; CHARLES H. COMBS; MR. & MRS. D.MCKAY; MR. & MRS. F. ZDVIHAL; JOE DOE, Sheriffs Deputy of Clackamas County, WM. M. BROOKS; Sheriff of Clackamas County and DENNIS VOTE.

Defendants-Appellees.

CA No. 82-3474

DC No. CV 81-866 ORP
Oregon (Portland)

"M"

AMENDED NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Rolf Betka the plaintiff above named, hereby appeals to the Supreme Court of the United States from (1) the Order of July 6, 1983 denying Motion for Relief from posting Cost Bond on the basis of actions having original and exlusive fed. jurisdiction in which appellant is defending life, liberty and property as defendant and plaintiff in federal and State actions with fed. ancillary jurisdiction within concept of pendente jurisdiction under authority of Title U.S.C. 28-1337 (Community Service Act under National Housing Act, and excessive fine and threat without due process as forfeiture) and 28-1355 and involving crimes against appellants property providing for punishment under Title 18 U.S.C., from (2) the same order including two orders by judge Frye and Penner of July 7 and

July 12, 1983 denying appellants Motion to amend summons to comply with the complaints (Civ. Rights and Declatory). Complaint for deplatory judgment was served and filed in this Court, and (3) from the same Order denying complaint for declatory judgment, and (4) from denial by letter of DC Clerk R.M.Christ, dtd Aug 18, 1983 refering to Order of 6/30/ and 7/26/82 of Motion made under authority of FRCP 60(b)(4)(6) to declare judgments void. The same Motion in its entirty was submitted to this Court as part of FRCP, Rule 60(b)(2)(6) Motion of Aug 15 with Amendment of Aug. 22, 1983.

R.M.Christs letter is a continuation of title 18, U.S.C. violation in collusion with Judge Penner and Judge Frye for which fed. criminal proceeding was started with copies of papers to this Court under No. AC 81-3611, 3613 and this action, dtd Nov 1, 1982, Jan 5, 1983 and Jan 26, 1983.

The Order of July 6, 1983 in this Court, Orders in District Court of July 7 and 12, 1983 (denying Motion having no time restrictions) and acts expressed by letter of R.M.Christ of 8/13/83 are dismissing the appe entered on the basis of involvment of a substential fed. question and constitutional claim with Notice of Appeal dtd Aug 23, 1982 and Amendments of Dec 23, 1982 and Jan 3 and Jan 31, 1983. On July 13, 1983 appellant had filed Objection and Motion for Rehearing on the Order denying the complaint for Declatory judgment for the purpose of certifyin the involved evidence and supported this with demand for Taking of Judicial Notice in paper of 8/22/83. A determination authorized under FRCP, Rule 23 was sought with same date.

Arguments of unconstitionality and City Ordenances involved beeing

repugnant to Constitution and Laws of U.S. was made in State Action against appellant and in this Court under FRAP, Rule 44. Parties were added as explained in Motion under Title 28-1653 with additional process to be ordered by this Court or by the Supreme Court. Appellant intends to docket the case by Sept 23, 1983 on the basis of interlocu-tory Orders listed, however would prefer the case to be brought before the Supreme Court after a decision on the merits of this action inspite of the July 6, 1983 Order regarding Cost Bond declared as beeing void together with Orders and Judgment in District Court. This appeal is taken pursuant to Title 28-1252 and 1253 and or 1651, 2106, 2201 and 2202.

DATED: Sept 2, 1983

ROLF BERTA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

AFFIDAVIT OF SERVICE

STATE OF OREGON)
) ss.:
County of Clackamas)

I, Rolf Betka, the plaintiff-appellant in this case, beeing first duly sworn deposes and says:

On Sept 2, 1983 a true and correct copy of the foregoing AMENDED NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES was served on the following individuals by depositing same together with MOTION TO CORRECT DEFECTIVE ALLEGATIONS in the United States Mail in Lake Oswego, Ore. enclosed in a sealed envelope with postage thereon fully prepaid and addressed as follows:

William A. Davis, J. Hill, E. Berg
One SW Columbia
Portland, Ore. 97258
for defendant Schermer and Combs

Bullivant, Wright, Leedy, Johnson
Pendergrass and Hoffman
1000 Willamette Center
121 SW Salmon Street
Portland, Ore. 97204
for defendant City of West Linn and its defendant employees

Keith Kinzman
Asst County Counsel
906 Main Street
Oregon City, Ore. 97045
for Wm M. Brooks, Sheriff and Joe Doe Sheriffs Deputy, and County of Clackamas

Defendant J. L. Bullock and Dennis Vote have made no appearance.

DATED: Sept 2, 1983

Rolf Betka
ROLF BETKA

Dorothy A. Ellen
Sworn to before me, Sept 2, 1983
NOTARY PUBLIC for Oregon
My Commission expires:
My Commission Expires August 18, 1985

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

CIVIL MINUTES – GENERAL

Case No. Civ.81-866FR Date July 7,1983

Title Betka v. City of West Linn

DOCKET ENTRY

Record of order striking pltf's motion to amend summons to complt filed & service in this action #138 from the MC 7/18/83. (Motion has been given to Judge Owen M. Panner)

'N'

PRESENT:

HON, Helen J. Frye, JUDGE

M. DeLap
Deputy Clerk

Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

PROCEEDINGS:

MINUTES FORM 11
CIVIL – GEN

D–M

Initials of Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

CIVIL MINUTES – GENERAL

Case No. 81-866 Date July 12, 1983

Title Betka v. City of West Linn

DOCKET ENTRY

REC of ORDER that, pursuant to Order of July 26, 1982, plaintiff's motion to amend summons to complaints is not accepted for filing.

'04

PRESENT:

HON. OWEN M. PANNER, JUDGE

by Roger Mellem/law clerk
Deputy Clerk

Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

PROCEEDINGS:

MINUTES FORM 11
CIVIL – GEN

143
D–M

Initials of Deputy Clerk

ROLF BETKA, In Pro Per
19686 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

"P"

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EXPEDITED HEARING REQUESTED

ROLF BETKA,

Plaintiff-appellant,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon, et al.,

Defendants-Appellees.

CA No. 82-3474

DC# CV 81-866
Oregon Portland)

MOTION AND MEMORANDUM OPPOSING DEFENDANT WEST LINN AND THEIR EMPLOYEES MOTION TO DISMISS THE APPEAL - RENEWED AND

MOTION FOR RELIEF PURSUANT TO FED. RULES OF CIV. PROCEDURE RULE 60(b)(2)(4)(6) FROM ORDER OF July 6, 1983 REG. COST BOND.

Appellant is demanding relief from the Courts Order regarding the Cost Bond issue on the basis as shown by attached copy of Motion made under authority of FRCP 60(b)(4) in District Court. Plaintiff-appellants allegation against the defendants (including defendants to be added) should have been found to be true with judgment to appellant if the case would have been handeled by the District Court according to fed. Rules. Appellant is also moving the Court in the light of their finding on the matter to arrange for just proceedings under Title 28-2106 if the Court should agree that the case should be given a chance in AC or DC before going to the SCt.

DATED: August 15, 1983

ROLF BETKA, In Pro Per

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Tele: (503) 657-3669

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EXPEDITED HEARING REQUESTED

ROLF BETKA,
Plaintiff-Appellant,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon, ARTHUR R. ENDERLIN, GERALD CRIPPEN, DONNA LEE FERGUSON, JON W. TEGTMEYER, JERRY L. BULLOCK, DAVID SCHERMER, CHARLES H. COMBS, JOE DOE, Sheriffs Deputy of Clackamas County, DENNIS VOTE, PAUL MC ALLISTER, Sheriff of CLACKAMAS COUNTY of the State of Oregon,

Defendants-Appellees.

Civil No. 81-866

CA No. 82-3474

MOTION UNDER FRCP 60(b)(4) declaring JUDGMENTS AS BEING VOID and DEMANDING RELIEF UNDER PROVISIONS OF FRCP 60(b)(6) FROM ORDERS AND JUDGMENTS AS FOLLOWS:

CR 80 - JUDGMENT ON PLEADINGS
CR 81 & 82 JUDGMT AND A/JUDGMENT
ORDER OF DISMISSAL DTD 6-30 & 7-2
JUDGMT & A/JUDGMT (CR 113 & 115)
ORDER OF 10-28-82
ORDER DENYING RELIEF FR. COST BOND
ORDER DENYING AMENDING OF SUMMONS 7-12-

THE JUDGMENTS and ORDERS listed above are hereby declared void under the provisions of Fed. Rules of Civ. Procedure, Rule 60(b)(4) and relief is hereby demanded under Rule 60(b)(6) for the following reasons: They were entered over the objections of plaintiff-appellant in the District Court inconsistent with due process of law, by the judges as listed below:

The fundamental right to be heard was violated by the following:

(1) Magistrate Juba with order (CR 29) denied plaintiff the right to file an opposing paper to defendant Schermer Motion to dismi

(2) Judge Redden denied a hearing on plaintiffs (CR 43) objection to Find & Rec. regarding Combs Motion to dismiss.
Judge Redden denied FRCP 60(b) Motion for Relief which was part of CR 73 - Objection to Magistr. Juba Order of 2-18-82 (CR

(3) Judge Panner denied hearing on CR 58 - Objection to Order by Magistr. Juba having decided on 28-636 Objections.
Judge Panner denied hearing on CR 110 - Objection to Order by Magistrate Juba pursuant to 28-636.
Judge Panner denied hearing on plaintiffs Motion of Nov 3,82 made under FRCP 60(b)

Judge Panner denied hearing on Dec 30-82 Motion under FRCP 59 - Altering Judgement of July 26 and Oct 28, 1982 because Nov. 3, 82 had been denied a hearing the 12-30-82 Motion was authorized to demand relief under 60(b) from 7-26 and 10-28, 82 Orders denying filing of Motion for Reasignment of Judges and Motion for express direction ... because of the unavoidable "something more" ~~more~~ findings.

Judge Panner dismissed claim against "Joe Doe, Sheriffs Deputy" without hearing. Summons had been issued and Motion to amend summons because of the involvment of the Sheriff, was dismissed.

The discretionary power of the Court was abused by the following:

(1) Magistrate Juba denied with order (CR71) plaintiffs request to answer defendant West Linn, and denied with Order (CR 46) plaintiffs motion to amend the complaint (CR 31), and inter alia, argued in par 3 regarding McAllister that new allegation contr. to evidence as shown in CR 18, 28 and 33) are not be part of amendment to complaint. Civ. & crim liability existes under ORS 30.190 166.165(1), 164.345(1)

With (CR 96) Magistrate Juba denied CR 73 which were objection to CR 71 and included CR 57 and 62 on the subject of the amendment to the complaint (CR 31) see above, and denial of CR 47 to amend F&R as objection to CR 44 and hereby also denying CR 52 on the Subject of the amendment to the complaint (CR 24)

Denying Consolidation with fed. 81-67 (CR 51) including evidence demanding jury trial and ruling on the validity of a release signed by defendant in fed. 81-67 in conspiracy with the City of West Linn. - by Magistrate Juba

(2) Judge Redden dismissing McAllister without any F&R and see (3) below.

(3) Judge Belloni granting Judgement on Pleading with (CR 80) applied by West Linn under 12(b)(6) and Running of St. of Lim. Evidence submitted with (CR 53) as matters outside the pleadings and with (CR 73) - incl. Motion under FRCP 59 and 60(b)(6) and Unsworn-statement under 28-1746 contested the grounds for the dismissal which would have demanded Summery Judgmt Proceddings as stated in (CR 101) Prelim. hearing on defenses after Rehearing (CR 83) was denied by Judge Redden constituing Abuse of discretion.

(4) Judge Panner dismissing the action without stating reason to allow plaintiff to amend complaint as applied for with CR 24 and 31 and as demanded by the granting of the Judgment on the Pleadings for West Linn.

Judge Panner denying CR 88 and 97 made under FRCP 52,59 and 60(b) from Order dismissing defendants (McAllister without P&R) which demanded "something more"finding with relief under (b)(6)

Judge Panner denying Motion for extension of discovery and Pretial Order.

Judge Panner denying (CR 91) with Order (112) in which plaint had requested Injunctive Relief and 3 Judge Court from judgme in State Court placed on plaintiffs real property with the help of garnishment proceedings in violation of Oreg. law and constituional protection of vested property and due proce as part of a conspiracy btween Clackamas County and State of Oregon impairing the obligations of public contracts.

Judge Panner denying plaintiffs motion to add the county of Clackamas made with (CR 89).

Judge Panner denying Motion to amend Summons to comply with the complaints with order of 7-12-83

Judge Panner denying Relief from Order of posting Cost Bond with order of 1-26-83.

DATED: August 15, 1983

ROLF BETKA, In Pro Per

CERTIFICATE OF MAILING

I hereby certify that on August 15, 1983 a true and correct copy hereof was mailed to the following individuals: (Incl. Motion and Memo opposing West Linns Motion to dismiss appeal & Mot for Relief under 60(b)(2)(4)

Emil R. Berg, One SW Columbia
Portland, Ore. 97258
atty for Schermer and Combs

Ronald E. Bailey, S. Joel Wilson
J.A. Geary, 1000 Willamette Center
121 Salmon St, Portland, Ore. 97204
attys for West Linn

Keith Kinsman, Asst County Counsel, 906 Main Street, Oregon City, Ore. 97045

DATED: August 15, 1983

ROLF BETKA

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

4

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROLF BETKA,

Plaintiff-Appellant,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon, et al.,

Defendants-Appellees.

CA No. 82-3474

DC# CV 81-866
Oregon, Portland OMP

MOTION FOR ORDER TO STAY EXECUTION OF OR PROCEEDING TO ENFORCE DEFAULT JUDGMENT under authority of FRCP 62(b)(6 and FRAP 1

Plaintiff-appellant moves this Court for an order staying all proceedings to enforce the judgment herein entered on August 22, 1983 in the Municipal Court of the City of West Linn, Oregon until the depositions of appellants following motions:

(1) Petition for Ancillary Jurisdiction, Motion to join add. defendants etc. with Supplemental Pleading, dtd Aug 2, 1983
(2) Renewed Motion to dismiss by def. Schermer and Combs, dtd Aug 3,83
(3) Relief from Order of July 6, 1983 under 60(b)(2)-CostBond, Decl. & Motion denying Schermers and Combs 8/3/83 Motion(Judgment etc.-
(4) Renewed Motion by West Linn to dismiss appeal, dtd 8/10/83
(5) Relief from Order 7/6/83 under 60(b)(2)(4)(6), dtd 8/15/83
(6) Amendments to August 2 and 9 papers by appellant including suggested filing of new Notice of Appeal to SCt - if necessary -
(7) Opposing Affidavit to (2) and (4)

Dated: August 26, 1983

ROLF BETKA In Pro Per

POINTS AND AUTHORITIES

The jurisdiction of this cause was transfered to this Court as shown by papers of appellant listed above and authority of FRCP 2283 and 2284 Title 28, U.S.C. The condition for hearing and review was restored by authority of FRCP 60(b)(2)(4)(6) and on account of repeated violation of Rule 11, FRCP by opposing attorneys in this Court. Relief under 60(b)(1)and (4)(6) had been denied contrary to Law in Dist: Court.

As shown in opposing affidavit - (7) above- the opposing attorneys had impressed upon the court that appellants cause is frivolous by referring to fed. 81-67 Order by Judge Frye and same Order by Judge Panner in this case. Contrary hereto allegations of substential federal question involved is before the Supreme Court in SCt 82-6705 after the 81-67, AC 82-3611, SCt 82-5754 case had been deprived of Rehearing on account of a technicallity and the involved violations of federal criminal Statutes are in the U.S. Dept. of Justice, Civil Rights Div. with the understanding that the recognition of the crimes create a civil cause under Title 28-1331 including this action.

IN SUPPORT OF MOTION TO STAY THE FOLLWING EXHIBTS ARE ATTACHED:

Exhibit "A" - 2nd Request for Discovery - dtd July 5, 1983
Exhibit "B" - West Linn Police Record and Request to Officer D. Ferguson, Record Supervisor, replaced by H.Gove to evade repeated charges of fabrication of public records. Furgeson knew of appellants allegation in 1st Request for Discovery of June 17, 1983 that Officer Suire and Kimble had been at appellants home to harass him and for this reason no paper trace had to be left, which was accomplished by replacing D. Ferguson.
Exhibit "C" Order of July 12, 1983, signed July 25, 1983 showing by item 2 and 7 that the Court allowed the City not to issue a statement of policy and custom regarding discrimination, over
Exhibit "D" Default Judgment, signed Aug 22, 1983. (appellants object

CERTIFICATE OF MAILING

I, Rolf Betka, hereby certify that on August 26, 1983 a true and correct copy herof was mailed to the following individuals:

Emil R. Berg One SW Columbia Portland, Ore. 97258	atty for Scharmer and Combs
Ronald E. Bailey, S. Joel Wilson, J.A. Geary 121 SW Salmon Street Portland, Ore. 97204	atty for West Linn, etc....
Keith Kinsman Asst County Counsel 906 Main Street Oregon City, Ore. 97045	atty for Sheriff and Joe Doe Sheriffs Deputy of Clackamas County, State of oregon.

Dated: August 26, 1983

Rolf Betka

I certify under penalty of perjury that the foregoing is true and correct.
Excecuted on: August 26, 1983

Rolf Betka

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: 657-3669

IN THE MUNICIPAL COURT OF THE CITY
OF WEST LINN, STATE OF OREGON

In the matter of the complaint
by the City of

WEST LINN, Oregon

vs.

ROLF BETKA, citizen of Oregon
and U.S.A.

Civil No.:

2nd REQUEST FOR DISCOVERY

In response to Request for Discovery, dtd June 17, 1983 defendant received with letter July 1, 1983 by M.D. Walsh, attorney for the City essential the same material received earlier from the City Judge, except and in addition hereto an unsigned statement attached to K. E. Howe's "Notice of Infraction of 5-9-83" and four requests to disclose any notes to Officer Garrett, Furgeson, Senger and M. Jolle (apparently replacing D. Furgeson, Records supervisor) signed by M. Jolle.

When I talked to Mr. Howe on 5-10-83 he stated the following which he did not list in his report:

(1) There were two Fergusons in the Police Department
(2) That he would request a dog license fee from Mr. & Mrs. Rick J. Bouffart who had been made subject of a complaint about their dog and which had been delivered earlier to the Bouffarts home on 19910 White Cloud Circle, West Linn
(3) That he had identified himself as the person having taken the call and had requested in response with the question "What do you do for a living?

K.E. Howe made these statements in the scope of his employment in the Police Dept of the City of West Linn and acted under the aparent authority of the Chief of Police Enderlein

The following additional requests are made:

(1) To amend K.E. Howes report to add the omission listed under (1-3)
(2) To submit a statement by Chief Enderlein showing the mode by which Police Officers are instructed to apply the laws in an equal manner for the protection and security of the Citizens of West Linn

LOVE

(3) Subpeana Donna Furgeson and H. ~~Jolie~~ (former and present Supervisor of Police records. Donna Furgeson is made subject of federal criminal charges - together with Chief Enderlein, former Officer Tegtmeier, Detective Crippen - for falsification of public records, to conceal involvment in fed. crime under 18 USC Title 2312,13 & 241,242&2

(4) Subpeana Dan Mc Kein, Clackamas County Animal Control Officer at 2223 Kaen Rd, Oregon City, Ore. with records showing payments for 1983 Doglicenses made during the Month of March 1983 identifying the amount of money and the individual having made the payment.

(5) Subpeana Officer Kimbel of the West Linn Police Department (she is subject to the fed criminal charges listed under (3) as accessory involving a crime against the United States violating Title 18-2312 and 2313 and 18-1503 and 18-1506 perpetrated in October of 1978 and July and August of 1980

(6) Subpeana Mr. & Mrs. Donald McKay, 19972 S. White Cloud Circle West Linn, Ore.

(7) Request statement from Officer J.H. Suire on his involvement in the matter before the court and if he was at defendants residence before May 31, 1983 in the company of officer Kimbel or other femal officer.

DATED: July 5, 1983

ROLF BETKA

With regard to request by City atty Welsh for disclosure of listings under ORS 135.835 defendant will respond after he had a chance to check out the statute.

At this point I will emphasize again that I am in complete agreement with the provisions of Oregon Statutes and K.E. Howes statement pointing to havy accent and disobedience to Oregon Law is a distortion reflecting on the Police Policies which are disriminatory against German Americans who appeal to the U.S. Government to restore truth freedom and justice with the help of the German American National Political Action Comitee of which defendant is a member.

Certificate of Service

I, Rolf Betka, hereby certify that a true and correct copy hereof was mailed on July 5, 1983 to the atty of the City of West Linn H. D. Walsh 209 Barcely Building, Oregon City, Ore. 97045

DATED: July 5, 1983

ROLF BETKA

WEST LINN POLICE DEPARTMENT

Officer Howe

Defendant Berka, Lolly

Charge FI to Procure 1983 Seq Lic

Case # 83-1568

Citation #

Date of citation/arrest 5/26/83

Defendant's attorney has filed for discovery rights. Please inspect your notebook for any notes and check the appropriate box below.

Complete this form as soon as possible and then place it in the Records Supervisor's box.

/ / Xerox copy of my notes is attached

[X] I have no notes, citation and/or report only.

Thank you,

~~Donna Ferguson~~ N. Howe

Date of request 6/28/83

Exhibit 9C

IN THE MUNICIPAL COURT OF THE CITY OF WEST LINN

FOR THE STATE OF OREGON

CITY OF WEST LINN, Plaintiff,	)	No. 83-1568
v.	)	
ROLF BETKA, Defendant.	)	ORDER

This matter came on for hearing July 12, 1983 before the Honorable Richard F. Crist on defendant's second request for discovery. Defendant was present and the City was represented by Michael D. Walsh. The Court having reviewed the file and listened to the statements of defendant and the City Attorney, now, therefore,

IT IS ORDERED as follows:

1. The defendant's request to amend K. E. Howes' report is denied;

2. The City will submit a statement by Chief Enderlin showing the mode by which police officers are instructed to apply the laws in West Linn, if such a statement exists; if not, the request is denied;

3. The defendant's request to subpoena Donna Ferguson and H. Gove is allowed;

4. The defendant's request to subpoena Dan McLain is allowed;

5. The defendant's request to subpoena Officer Kimbel is allowed;

6. The defendant's request to subpoena Mr. and Mrs. Donald

BIGGS, HUTCHISON, HAMMOND & WALSH
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
[illegible]

McKay is allowed; and

7. The City will provide any statements from Officer Suire regarding his involvement in this matter, if it exists; if not, the motion is denied.

DATED this _____ day of July, 1983.

Richard F. Crist
Municipal Court Judge

☐ Circuit Ct. ☐ Supreme Ct. Case No. 83-1568 (Attorney)
☐ District Ct. ☐ U.S. Dist. Ct. Our File No.
☐ Bankruptcy Ct.

Please indicate when the document listed below was processed. Thank you.

West Linn v. Betka
(Short Title of Case or Proceeding)

Order
(Title of Document)

☒ Was signed 7/25, 1983, by Judge Crist
☐ Was entered , 19 , by
☐ Termination Date , 19
☒ Was filed 7/25, 1983, by
☐ Was served , 19 , by
☐ Attorney fees awarded $ ☐ Costs awarded at $

Remarks

Ella Hewitt
(Judge) (Deputy) (Clerk)

Form No. 958 Stevens-Ness Law Pub. Co., Portland, Oregon

BIGGS, HUTCHISON, HAMMOND & WALSH
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
[illegible]

IN THE MUNICIPAL COURT OF THE CITY OF WEST LINN

CLACKAMAS COUNTY, STATE OF OREGON

CITY OF WEST LINN,	)	
	)	
Plaintiff,	)	No. 83-1568
	)	
v.	)	
	)	
ROLF BETKA,	)	DEFAULT JUDGMENT
	)	
Defendant.	)	

This matter came on for trial August 9, 1983 before the above entitled court, plaintiff being ready for trial and defendant not appearing in person or by counsel, the court having reviewed the file, finds defendant in default and orders a forfeiture in the amount of $50 plus court costs in the sum of $75; now, therefore, it is hereby

ORDERED AND ADJUDGED that plaintiff have judgment against defendant in the sum of $50 and for its costs incurred herein taxed at $75 and that execution issue therefor.

DATED this 22nd day of August, 1983.

Richard F. Crist
Municipal Court Judge

BIGGS, HUTCHISON, HAMMOND & WALSH
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
320 BARCLAY BUILDING, CORNER SEVENTH & MAIN
OREGON CITY, OREGON 97045
(503) 655-1234

83-5460

RECEIVED
SEP 19 1983
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1983

No.:

ROLF BETKA,
Petitioner,

vs.

CITY OF WEST LINN, et al.,
Respondents.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Rolf Betka respectfully moves the Court for leave to proceed herein in forma pauperis, in accordance with the provisions of Title 28 USC, Sec 1915, and Rule 46 of the rules of this Court. The affidavit of Rolf Betka in support of this Motion is hereto attached.

Presented herewith is the jurisdictional statement of the moving party plaintiff-appellant Rolf Betka.

DATED: Sept. 20, 1983

Respectfully submitted:

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1983

No.

ROLF BETKA,

Plaintiff-Appellant,

vs.

CITY OF WEST LINN, a subdivision of the State of Oregon; ARTHUR R. ENDERLIN; GERALD CRIPPEN; DONNA LEE FURGESON; JOHN V. TEGTMEYER; JERRY L. BULLOCK; DAVID SCHERER; CHARLES H. COMBS; JOE DOE, Sheriff's Deputy of Clackamas County; DENNIS VOKE; WM. M. BROOKS; Sheriff of Clackamas County, State of Oregon.

Defendants-Appellees.

MOTION FOR DISPENSING OF PRINTING REQUIREMENTS

Rolf Betka, the plaintiff-appellant herein, respectfully moves the Court for an Order to dispense with the requirements, under Rule 39 of the Court, that plaintiff-appellant's motion for leave to proceed in forma pauperis be printed, and permitting plaintiff-appellant to file said motion in typewritten form, pusuant to Rule 46 of this Court.

The grounds for this motion are that appellant is financially unable to afford to pay the costs of printing said motion.

The plaintiff-appellant has complied with the requirements of Rule 46 of this Court, in that with date of Sept. 20, 1983, he filed with this Court his Motion to Proceed in Forma Pauperis together with his affidavit setting forth facts showing he comes within the

requirements prescribed by Section 1915, Title 28 U.S.C. Copies of said Motion for Leave to Proceed in Forma Pauperis with affidavit and jurisdictional statement are attached hereto.

For the foregoing reasons, plaintiff-appellant respectfully submits that this Court should make and enter an order dispensing with the printing of plaintiff-appellants Motion for Leave to Proceed in Forma Pauperis, Affidavit and Jurisdictional Statement and permitting plaintiff-appellant to file said papers in typewritten form.

DATED: Sept. 20, 1983

ROLF BERG, In Pro Per
19786 S. White Cloud Circle
West Linn, Ore. 97068
Telephone: (503) 657-3669

RECEIVED
SEP 19 1983
OFFICE OF THE CLERK
SUPREME COURT, U.S.

83-5460

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1983

No.

ROLF BETKA, Petitioner,

vs.

CITY OF WEST LINN, et al.,

Respondents.

AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS

STATE OF OREGON)
) ss.:
County of Clackamas)

I, Rolf Betka, beeing first duly sworn, depose and say that I am the petitioner and plaintiff-appellant in the above entitled case; that in support of my Motion to Proceed on appeal without beeing required to prepay fees, costs, or give security therefor, I state that because of my poverty I cannot pay or give security for the costs and still be able to provide myself with the necessaties of life. I have not asked for leave to proceed in forma pauperis in the lower Courts and was not denied such leave.

DATED: Sept. 20, 1983

ROLF BETKA, In Pro Per
19886 S. White Cloud Circle
West Linn, Ore. 97068
Telephone (503) 657-3669

Subscribed and sworn before me
this 20thday of Sept. 1983

NOTARY PUBLIC FOR OREGON: Mary C Jane
My commission expires: 4-19-84